1109. Also, petition of Industrial Council of Cloak, Suit and Skirt Manufacturers, Inc., Leo A. Del Monte, president, New York City, favoring the President's national industrial recovery act; to the Committee on Ways and Means.

1110. Also, petition of Melchior, Armstrong, Dessau Co., New York City, concerning House bill 5480, the securities bill; to the Committee on Banking and Currency.

1111. Also, petition of machine stone workers, rubbers, and helpers of New York and vicinity, Local No. 5, New York City, urging the Federal Government to use stone fabricated in the Metropolitan district in the erection of Federal buildings; to the Committee on Public Buildings and Grounds.

1112. Also, petition of C. D. Mallory & Co., Inc., favoring the passage of House bill 4871 as an amendment to House bill 5040; to the Committee on Ways and Means.

1113. By Mr. MARTIN of Massachusetts: Petition of Aaron Solotist and other citizens of Fall River, Mass., protesting against the persecution of Jews in Germany, and requesting intercession by the Government of the United States; to the Committee on Foreign Affairs.

1114. By Mr. RUDD: Petition of Industrial Council of Cloak, Suit and Skirt Manufacturers, Inc., New York City, favoring President Roosevelt's national industrial recovery act; to the Committee on Ways and Means.

1115. Also, petition of machine stone workers, rubbers, and helpers of New York and vicinity, Local No. 5, New York City, favoring a Government building program to relieve unemployment; to the Committee on Ways and Means.

1116. Also, petition of C. D. Mallory & Co., New York City, favoring the passage of House bill 5040 as amended by the Senate; to the Committee on Ways and Means.

1117. Also, petition of Melchior, Armstrong, Dessau Co., New York City, favoring the enactment of the securities bill with certain amendments; to the Committee on Interstate and Foreign Commerce.

1118. By Mr. SUTPHIN: Petition of Pride of Monmouth Council, No. 27, Sons and Daughters of Liberty, urging immediate passage of House bill 4114; to the Committee on Immigration and Naturalization.

1119. Also, petition of Pride of Mechanics Home Council, No. 61, Sons and Daughters of Liberty, of Jamesburg, N.J., urging immediate passage of House bill 4114; to the Committee on Immigration and Naturalization.

1120. By Mr. WIGGLESWORTH: Petition of the mayor and City Council of Brockton, Commonwealth of Massachusetts, favoring a study of the entire matter of veterans' legislation in the hope that such study will bring a favorable adjustment, to the end that no veteran suffering from a disability incurred in line of duty while in the active military and naval service of the United States shall be called upon to bear a greater sacrifice than other classes of the American public, bearing in mind the hardships and tribulations that they endured during the period of war; to the Committee on Ways and Means.

1121. By Mr. WOLVERTON: Petition of Jewish residents of Collingswood, N.J., protesting against the treatment given the Jewish people in Germany; to the Committee on Foreign Affairs.

1122. By the SPEAKER: Petition of the city of Two Rivers, Wis., pertaining to the issuance of national currency to municipalities on the pledge of their bonds; to the Committee on Banking and Currency.

1123. Also, petition of the citizens of Washington, D.C., having no direct representation in the matter, earnestly petitioning their Representatives in Congress not to pass the increased tax assessments again recommended by the Mapes legislative committee, increasing levies on real estate, corporations, inheritances, automobiles, gasoline, etc., nor to reduce the Federal lump-sum appropriation, because we believe that any additional tax burdens just at this time would be a discouragement to business in general in the District of Columbia; to the Committee on the District of Columbia.

SENATE

SATURDAY, MAY 20, 1933

(Legislative day of Monday, May 15, 1933)

The Senate sitting as a court for the trial of articles of impeachment against Harold Louderback, judge of the United States District Court for the Northern District of California, met at 10 o'clock a.m., on the expiration of the recess.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The respondent, Harold Louderback, with his counsel, Walter H. Linforth, Esq., and James M. Hanley, Esq., appeared in the seats assigned to them.

PROCLAMATION

The VICE PRESIDENT. The Sergeant at Arms will proclaim the Senate sitting as a Court of Impeachment in session.

The Sergeant at Arms made the usual proclamation.

THE JOURNAL

On motion of Mr. ASHURST, and by unanimous consent, the reading of the Journal of the Senate sitting as a Court of Impeachment for the calendar day of May 19 was dispensed with, and the Journal was approved.

The VICE PRESIDENT. What witness do counsel for the respondent desire to call?

Mr. LINFORTH. The witness Hunter was on the stand.

The VICE PRESIDENT. Call the witness. Has the witness been sworn?

Mr. Manager BROWNING. Yes, sir.

CROSS-EXAMINATION OF H. B. HUNTER (CONTINUED)

H. B. Hunter, having been previously sworn, was cross-examined further, and testified as follows:

By Mr. Manager BROWNING:

Q. Mr. Hunter, what was the total amount of money that you collected in the Russell-Colvin estate as receiver?—A. There was over $3,000,000 of assets.

Mr. Manager BROWNING. Mr. President, I object to the witness' not responding to the question, and I ask that the reporter read it to him.

The VICE PRESIDENT. The witness will answer directly the question according to the information he has.

The WITNESS. In my opinion, there was over a million dollars collected for the estate in the way of the collection of accounts—cash, selling securities, credits on indebtedness, and so forth.

Q. Do you mean to tell me, in answer to my question, that you collected over $1,000,000 of money as receiver? Answer, yes or no.—A. No; not in money.

Q. Then tell me the amount of money that you collected.—A. I think in the neighborhood of $500,000.

Q. Now, what came into your hands in the form of securities, and how much which was not money but securities?—A. There was over a million and a half dollars of securities that were in the estate, which were partially liquidated or sold to satisfy indebtedness due by the estate to the extent of $500,000, and also additional amounts were sold to satisfy the overborrowing of the partnership on customers' securities, which would leave about some $800,000 to $900,000.

Q. I will ask you again to state, not including money, which you state was $500,000, but the securities alone that came into your possession as receiver for distribution to the owners?—A. I say it was around $500,000.

Q. You recall the filing of a petition to put the concern into bankruptcy after the appointment of a receiver?—A. I am not familiar with the petition; no.

Q. You know it was filed?—A. Oh, yes.

Q. What class of claims was it that was represented in the petition? Was that what was known as the Sanderson claim?—A. If I may correct you, it was the Sendermen case. I do not think there was a claim filed in the Sendermen case.

Q. Was the petition filed by creditors of the concern?—A. As I understand it, Paul Marrin, representing a creditor by the name of Olmstead, filed the petition.

Q. I am talking now about the petition in bankruptcy.—A. Oh, the petition in bankruptcy. I do not know anything about that.

Q. Do you not know that it was the Sendermen claims that were represented by this petition in bankruptcy?—A. I have heard that, but I do not know it to be a fact.

Q. You do know the Sendermen claims were settled?—A. I do.

Q. And that that eliminated the bankruptcy proceeding?—A. I know that Sendermen was a partner in Russell-Colvin and claimed certain partnership profits and securities. He had a claim, I think, of twenty-five or fifty thousand dollars.

Q. And that claim was settled by you as receiver?—A. On the recommendation of counsel for the general creditors.

Q. And that eliminated the bankruptcy proceeding?—A. I am not certain that that eliminated the bankruptcy proceeding, but that was a part of the deal; yes.

Q. There was also a group of claims that you settled in full of those who were general creditors of the estate, was there not?—A. The preferred creditors in the general estate; yes.

Q. Part of those claims were represented by Mr. Kreft, who testified here yesterday, were they not?—A. That was an exception filed.

Mr. Manager BROWNING. Mr. President, I ask that the witness answer my question.

The VICE PRESIDENT. If the witness has knowledge, he must answer the direct question that the counsel asks.

Q. Part of those claims that were settled were represented by Mr. Kreft, who testified here yesterday, were they not?—A. I know $75,000 was paid to Mr. Kreft's clients.

Q. That was in full of his claim?—A. It was not in full.

Q. What percentage did you pay?—A. A very small part or percentage.

Q. Do you mean that he settled for less than was paid out to the other creditors?—A. No; but to avoid long litigation. Mr. Kreft claimed certain offsets, and, on recommendation of the counsel for the plaintiff and the defendant, the matter was settled.

Q. Were those recommendations from the counsel for the receiver?—A. They were not.

Q. Well, on whose advice did you settle that? Did you do it without advice from your own counsel?—A. My own counsel undoubtedly thought that was the advisable thing to do to save the estate from lengthy litigation.

Q. I will ask you again if it was on advice of counsel for the receiver that you made the settlement?—A. I would say so; yes.

Q. Now, Mr. Hunter, there was a certain amount of stock that you had on option and that you permitted the option to expire on without selling for the price that had been offered, was there not?—A. May I correct you on that?

Q. Yes.—A. There were certain bonds of the Consolidated Box deal which were on option to be sold to Mr. Blumberg, representing something like 21 bonds. I think there were conditions. There was an option to deliver them at a certain time; there was a letter of credit issued by the Wells, Fargo Bank guaranteeing payment; the due date on the option and the due date on the letter of credit varied 30 days.

Q. You did permit that option to expire without selling?—A. I did.

Q. And what was the loss to the estate because of that lapse of the option?—A. The loss to the estate was $4,200. That I do not consider a complete loss for this reason: There were 13 bonds pledged to the collector of internal revenue, guaranteeing him the payment of the income tax. If I had refused or had gone to him and said, "Now, you sell your bonds", it would have put him in a very difficult position. It would have lengthened the litigation by many months, fighting with the Government over the payment of their income tax. So that I took it to avoid a long-drawn out litigation and justification for more fees and more expenses.

Q. It was out of your consideration for him that you let this option lapse, was it?—A. Out of consideration for Mr. Blumberg?

Q. Yes.—A. Not at all.

Q. You gave as a reason that he would have lost on his income-tax matter, as I understand.—A. No; the collector of internal revenue.

Q. But you did not take that into consideration when you let the option lapse, did you?—A. No, sir. The reason the option lapsed was due to a misunderstanding of the legal terms of the letter of credit.

Q. When you testified before our committee last September in San Francisco you took full responsibility for this yourself?—A. I do; as I always do in the administration of anything.

Q. And you did not offer at that time any excuse for your failure to sell on that option?—A No, sir; there is no excuse when a man makes an error.

Q. How long were you connected directly as assistant to the president of the San Francisco Stock Exchange?—A. I think about 8 or 9 months.

Q. Have you been closely associated with the stock exchange or members of the stock exchange before and since that time?—A. I think so.

Q. Do you think you are very familiar with the attitude of the conduct of the stock exchange?

Mr. LINFORTH. Just a minute. I submit, Mr. President, that question is objectionable. The attitude of the stock exchange and its conduct should not be left to the opinion of the witness.

Mr. Manager BROWNING. I am asking him whether he knows it, and that is the only way we have to prove it.

The VICE PRESIDENT. What is the object of the testimony?

Mr. Manager BROWNING. The object of the testimony, Mr. President, is that this man, as assistant to the president of the stock exchange, and as directly connected with the members of the stock exchange, should know what the attitude of the stock exchange has been toward the liquidation of the estates of its members. The effort has been made here to try to show some kind of a suspicious interest on the part of the exchange in the settlement of this estate, and we want to prove what the attitude of the stock exchange really is in the case of these administrations.

Mr. LINFORTH. One minute, Mr. President. We submit their attitude on any matter other than the matter under consideration is purely immaterial to this inquiry, and I make the objection in the interest of time.

The VICE PRESIDENT. Is the purpose of the managers on the part of the House to show the general reputation of the stock exchange?

Mr. Manager BROWNING. No; the purpose is to show whether the activities of the stock exchange on matters that involve its members is in the interest of covering up something or the interest of protecting the public and economical administration.

The VICE PRESIDENT. The witness may be allowed to answer the question.

Mr. Manager BROWNING. I will ask the reporter to read the question.

The WITNESS. I think I recall the question. I have no knowledge of the attitude of the stock exchange.

By Mr. Manager BROWNING:

Q. Did you contact the attorneys for the stock exchange in the administration of this Russell-Colvin matter?—A. I contacted every attorney in town interested in the estate, including the stock-exchange attorneys.

Mr. Manager BROWNING. I asked the witness one question, and I insist I have the right to an answer to that question.

The VICE PRESIDENT. The witness will answer the question directly.

The WITNESS. I did.

Q. Was that Mr. Lloyd Dinkelspiel and other members of the firm?—A. Lloyd Dinkelspiel.

Q. How often and in what relation?—A. Once when I asked him to come to sit in with a great many other attorneys who were there as to the method of handling the estate to approve the procedure that I was setting up so that I would have his approval and should not have a long-drawn-out litigation later.

Q. Who are the attorneys who were present in this conference?—A. Lloyd Dinkelspiel, Mr. Ackerman——

Q. Is that Lloyd Ackerman?—A. Lloyd Ackerman. Mr. Cohen—Aaron Cohen—a representative from Mr. Peart's office, Mr. Simon from the stock exchange, and several other attorneys. I do not recall the names now.

Q. Was Francis Brown there?—A. Oh, Francis Brown was there; yes.

Q. And De Lancey Smith?—A. I do not recall De Lancey Smith's being there, but I think Mr. Marrin was there.

Q. You mentioned some representative of the stock exchange other than Lloyd Dinkelspiel; who was that?—A. Mr. Simon.

Q. In what relationship did he represent the exchange?—A. Only as a member, I should say, and as a member of the board of governors.

Q. Throughout the administration of this estate, to your knowledge was there any effort on the part of anyone representing the stock exchange to cover up any act of this member of the exchange that would be hurtful to the public or to the creditors?—A. I do not know of any. I had full cooperation from the exchange.

Q. Mr. Hunter, when were your fees paid? What date was the money transferred from the receiver's account to your personal account in this case?—A. I think the estate had run about 15 months when the amount was allowed by the court of $33,000 which I received. In another 6 months I think I was paid an additional $7,500.

Q. I am asking the exact date on which the money was transferred from your account as receiver in this first matter of the allowance of fees to your personal account, and when the second amount was allowed and transferred to your personal account?—A. I do not recall. My records, which were subpenaed in this case, and my bank account would show that. I do not recall the exact date. The cash account will show that.

Q. Will you consult the records in the hands of the clerk and give us that information?—A. I will try to; yes.

Q. Do you know the exact date on which the money was paid to the attorneys in this case?—A. Probably the same date.

Q. You will supply that for the record at the same time you supply the other?—A. Yes.

Q. I believe you stated yesterday that you did not divide your fees with anyone?—A. That is absolutely true. I think when you were in San Francisco and subpenaed my account, I satisfied you in that regard. My account and my wife's account were investigated thoroughly and I think we accounted for every nickel.

Q. Soon after your fee was allowed to you in this case did you consult an attorney and tell him that you thought you were supposed to divide your fee with somebody?—A. I do not recall it; no, sir.

Q. If you had, would you know it?—A. I certainly would.

Q. Do you say now that you did not consult anyone at any time about a division of your fee?—A. Absolutely.

Q. Did you speak to an attorney about your fee after you got it?—A. I do not recall.

Mr. Manager BROWNING. That is all.

The VICE PRESIDENT. Are there any further questions?

Mr. LINFORTH. Just a question or two, Mr. President.

The VICE PRESIDENT. Proceed.

Redirect examination by Mr. LINFORTH:

Q. In line with the question asked you, did you submit your bank account and your wife's bank account to Mr. LaGuardia when the investigation was going on in San Francisco?—A. I did.

Q. Did you also, upon their demand or request, take them to your safe-deposit box, so they could examine your safe-deposit box?—A. Absolutely; both Mrs. Hunter's and my own box and accounts.

Q. They examined both your safe-deposit box and your wife's safe-deposit box?—A. Absolutely. No rock was left unturned.

Mr. LINFORTH. That is all.

Mr. KING. Mr. President, I wish to submit a question which I wish to propound.

The VICE PRESIDENT. The clerk will read the question submitted by the Senator from Utah.

The legislative clerk read as follows:

Q. The testimony indicates that you and your attorney consulted frequently. Was there any necessity to consult so often?

The WITNESS. There was, Senator. I think my daily record of service, in which I am rather methodical when I put down matters, shows that I consulted them almost daily on questions of law.

Mr. KING. Mr. President, I submit another question.

The VICE PRESIDENT. Let it be read.

The legislative clerk read as follows:

Q. State the reasons for such frequent consultations.

The WITNESS. There were hundreds and hundreds of questions that had to be settled in the liquidation of a brokerage concern, and these came up every day as I worked on the problem. As an instance of the questions I wished decision upon, I recall a few. The first thing that I wanted to know was what date would the securities be appraised. Would it be the date of the receiver's appointment or a later date or an earlier date? That is just one illustration. There are hundreds of them that you can find out from the record. I have a record of questions asked that I should be glad to submit if anyone cares to look at them.

The VICE PRESIDENT. Are there any further questions? If not, the witness will stand aside.

(The witness retired from the stand.)

EXAMINATION OF JOHN DINKELSPIEL

Mr. LINFORTH. We will call Mr. John Dinkelspiel.

John Dinkelspiel, having been first duly sworn, was examined and testified as follows:

The VICE PRESIDENT. The Chair appoints the Senator from Nevada [Mr. McCARRAN] to preside for this day.

(Thereupon Mr. McCARRAN took the chair.)

Mr. LINFORTH. Shall I proceed?

The PRESIDING OFFICER. You may.

By Mr. LINFORTH:

Q. Will you please state your residence and occupation?—A. My residence is San Francisco, Calif., and my occupation is attorney at law.

Q. What is the name of your firm?—A. Dinkelspiel & Dinkelspiel.

Q. At the time of the transactions which are under investigation who were the members of your firm?—A. For part of the transactions the firm consisted of my father, who was then living, Henry G. W. Dinkelspiel, and my brother, Martin J. Dinkelspiel, and myself. My father passed away in 1931.

Q. How long had he been practicing law in San Francisco?—A. He was admitted to the bar of San Francisco in 1891.

Q. In the 5 years which Judge Louderback was upon the Federal bench, in how many matters were you appointed attorney for a receiver?—A. Four.

Q. When he was upon the trial bench of the superior court for 8 years, were you appointed attorney for a receiver in any matter?—A. No, sir.

Q. In any of the fees allowed your firm in the four receivership matters to which you have referred, did Judge Louderback directly or indirectly receive any part or portion of them?—A. No, sir.

Q. Did anyone except yourselves receive any portion of those fees?—A. No, sir.

Q. Do you know Mr. W. S. Leake?—A. No, sir.

Q. Never met him?—A. Never in my life.

Q. In the case known as "the Sonora Phonograph case", you were attorneys for the receiver?—A. Yes, sir.

Q. Who was the receiver?—A. It was an ancillary receivership proceeding. There were two receivers in the first instance, the Irving Trust Co., of New York City, and G. H. Gilbert.

Q. Mr. Dinkelspiel, in answering my questions, in the interest of time, will you please cut out as much detail as you can and just give us the ultimate facts or conclusions?—A. Very well.

Q. Who was the receiver in that receivership?—A. The Irving Trust Co. and G. H. Gilbert.

Q. Did the Irving Trust Co. continue to act during the entire time, or was it relieved of its duties?—A. It was relieved of its duties.

Q. How long did the receivership continue, approximately?—A. Approximately 7 months.

Q. In that time, in round numbers, how much money was collected by the receiver?—A. Approximately $350,000.

Q. Did the receiver carry on the affairs of that concern as a going concern?—A. He did.

Q. Did the receiver dispose of the assets which that company had within the northern district of California?—A. He did.

Q. In that matter what fees were allowed by Judge Louderback?—A. The receiver received sixty-eight hundred and some odd dollars, and the attorneys $20,000.

Q. Was the amount allowed the receiver figured upon the statutory basis?—A. The fees allowed to the receiver in that case were fixed according to section 48 of the bankruptcy law.

Q. That established the amount that was allowed to the receiver. Is that correct?—A. Yes, sir.

Q. What amount was allowed to you?—A. $20,000.

Q. Before that amount was allowed to you was there any agreement made by the representatives or attorneys of the home receivership in New York as to the amount that should be allowed you?—A. We filed an application for $22,500. We submitted that to the attorney for the Irving Trust Co. and to the attorneys representing the creditors' committee in New York City. They advised us that we should file an ad interim account and that they agreed that as an interim allowance the court should allow us $15,000 on account.

Q. Subsequently, when an additional application was made for $7,500, was that taken up with the attorneys for the home receiver in New York, and was any suggestion or agreement made as to what should be allowed?—A. Yes, sir. The attorneys in New York City representing the trustees, and also the attorneys representing the creditors' committee, suggested that an allowance of $2,500 be approved.

Q. In other words, the attorneys for the New York receivership consented to an allowance of $17,500 in full?—A. That is correct.

Q. And the court allowed you $20,000?—A. That is correct.

Q. You have the telegrams and the letters of those attorneys to that effect?—A. I have.

Q. You can produce them here if opposing counsel desires them?—A. I can, sir.

Q. Did you apportion or divide the fee received in that manner with anyone?—A. No, sir.

Q. Except your partners?—A. No, sir.

Q. Not a dollar of it?—A. No, sir.

Q. During that receivership, did you come in daily contact with Mr. Gilbert, the receiver?—A. Practically every day, sir.

Q. With respect to the work that he did as receiver, how did you find him, efficient or otherwise?—A. I found him efficient in that case, and believe that the people in interest also found his work efficient.

Mr. Manager SUMNERS. Mr. President——

Mr. LINFORTH. I consent that the part of the answer which purports to state what the others found him to be may go out.

The WITNESS. I am sorry.

By Mr. LINFORTH:

Q. Were you the attorney for the receiver in the Golden State Asparagus case, so called?—A. Yes, sir.

Q. In round numbers, what was the value of the assets of the Golden Gate Asparagus Co.?—A. In round numbers, slightly over $1,000,000.

Q. And, in round numbers, what were its liabilities?—A. Its secured liabilities were approximately four or five hundred thousand dollars; and, in round numbers, its unsecured liabilities were about the same figure.

Q. Who was the receiver in that case?—A. George N. Edwards.

Q. Did you know Mr. Edwards before he had been appointed receiver?—A. No, sir.

Q. By the way, does your firm make a specialty of matters of this kind—liquidation matters?—A. Yes, sir. We have, I should say, a large bankruptcy and receivership practice.

Q. In the Asparagus Co. matter, how long did that receivership last?—A. It was commenced in September 1930 and it is still pending.

Q. During that receivership, did you ascertain that a great portion of its assets had been pledged and mortgaged to a certain bank?—A. When the receiver was first appointed, in September 1930, I might say generally that practically every asset of any value of the company was hypothecated to the Pacific National Bank of San Francisco.

Q. As the result of negotiations entered into by the receiver, Mr. Edwards, and yourself, with the assistance of others, did you liquidate the assets that were under pledge or mortgage?—A. We were able to pay off the loan to the Pacific National Bank in full and preserve an equity in the company of a considerable amount of money. I cannot fix the amount, because it depends on the value, based on economic conditions.

Q. How much was the obligation of that bank which you and the receiver, with the assistance of the others, liquidated and paid off?—A. Between $225,000 and $235,000.

Q. Do not go into detail, but state briefly how many petitions and applications of various kinds were prepared by you and presented to the court during the administration of that receivership.—A. We prepared, on behalf of the receiver, 18 separate rent-share base contracts and leases, all of which were different, and on which we could not use the previous form or basis to work out. We prepared a petition and negotiated to close the sale of some 16 acres to the Southern Pacific——

Q. Mr. Dinkelspiel, will you permit an interruption in the interest of time? Instead of stating what they were, unless it is asked for on cross-examination, will you state in round numbers the number of petitions that you prepared which were submitted to the court and passed upon by the court in that receivership?

Mr. Manager SUMNERS. Mr. President, may I suggest to counsel for respondent that it will perhaps save time if the witness will indicate in what connection these various documents were prepared. It might save time.

Mr. LINFORTH. In the interest of time, I leave that for the cross-examination, Mr. President.

The PRESIDING OFFICER. You may proceed.

The WITNESS. We prepared approximately 18 or 19 separate leases, probably 5 or 6 separate agreements, and numerous other agreements which were drafted and not executed.

Q. In round numbers, how much in cash did the receiver take in during his receivership?—A. I do not believe I could answer that question without referring to the receiver's account.

Q. Could you answer, in round numbers, whether it was several hundred thousand dollars or a few dollars?—A. I could not give an answer on that.

Q. The receiver took in more than enough to pay the bank two hundred and odd thousand dollars, did he not?

Mr. Manager SUMNERS. We object to that question, Mr. President.

Mr. LINFORTH. My embarrassment is that I am trying to save time.

Mr. Manager SUMNERS. I withdraw the objection.

The PRESIDING OFFICER. The objection is withdrawn.

The WITNESS. I could not give you a proper answer without referring to the receiver's account, which is on file with the papers.

Q. In that matter, to your knowledge, was an arrangement made between the attorneys representing the plaintiff and the attorneys representing the defendant in that case with reference to the compensation of the receiver?—A. Yes, sir.

Q. What was the arrangement made with those attorneys as to the compensation of the receiver?—A. The receiver was to receive $1,000 per month.

Q. How much did you apply for as one of the attorneys for the receiver?—A. $14,000, covering 1 year's services.

The PRESIDING OFFICER. Just a moment. The Chair assumes that when you use the word "you", you mean the firm, do you not?

Mr. LINFORTH. Thank you, Mr. President, for the suggestion.

By Mr. LINFORTH:

Q. When I say "you", I mean your firm.—A. $14,000 for 1 year's services.

Q. Before that application came on for hearing, was there any discussion between you and the receiver and the attorneys for the American Can Co., the plaintiff in that case, with reference to the amount that should be allowed to yourself and the receiver?—A. Yes, sir.

Q. Who was that attorney?—A. Mr. Fox, of Chickering & Gregory, and Mr. Richter, of Cushing & Cushing.

Q. What amount was agreed to as the reasonable value of the services of the receiver and the attorney?—A. We were unable to agree to any figure. Mr. Richter, who represented the defendant company, advised us that his client no longer had any direct interest in the situation, and referred us to the creditors' committee and to Mr. Fox, who represented the American Can Co., who was the petitioner in the action. We took up the matter with Mr. Fox, and advised him that we were considering filing a petition both for the receiver and for his attorneys for $15,000 apiece to cover the 1 year's service. Mr. Fox said, "Well, I should rather not pass on that. I will suggest that you take up the matter with Judge William J. Hayes", who was the attorney for the San Francisco Board of Trade, and who was representing numerous creditors.

Q. Did you take it up with Mr. Hayes?—A. We did, sir.

Q. What amount did Mr. Hayes suggest?—A. He suggested that a fee of $10,000 would be in order.

Q. Did the matter come on subsequently before Judge Louderback for hearing?—A. Yes, sir.

Q. At that hearing did Mr. Hayes suggest that he thought $10,000 would be reasonable?—A. Mr. Hayes' statement in court was, he advised the court that we had discussed this matter with him; that we had offered at that time—we felt, if I may recount that conversation a little more fully——

Q. Mr. Dinkelspiel, I want you, please, to be as brief as possible, and cut out details.—A. Judge Hayes advised Judge Louderback, when the matter came on for hearing, that he was neither approving nor disapproving of the application made, but that he was instructed by his clients to state that in their opinion an allowance should be made of $10,000 covering 1 year's services.

Q. Did the court make any statement to Mr. Fox, representing the American Can Co. and its attorneys, Chickering & Gregory, as to what amount in his opinion was reasonable?—A. Yes, sir.

Q. What did Mr. Fox reply?—A. Mr. Fox suggested, instead of making the allowance for 1 year's services, in view of the fact that the application was being heard about 16 or 18 months after the inception of the receivership, that Judge Louderback make the allowance on account of services rendered to date.

Q. Was there any question from the judge to Mr. Fox as to what, in his opinion, the services were worth?—A. Yes, sir.

Q. What took place in that respect?—A. The judge asked Mr. Fox, on his suggestion, what he felt should be a proper allowance on account, as distinguished from our application for 1 year. Mr. Fox stated $15,000.

Q. In the submission of the matter, how much did the court allow you and how much did the court allow the receiver?—A. To the receiver, $14,000 on account; and to ourselves the same amount on account.

Q. Was any appeal ever taken from either order?—A. No, sir.

Q. With reference to that fee of $14,000, to your absolute knowledge did the respondent, Judge Louderback, ever receive a cent of it?—A. No, sir.

Q. Did anyone except the firm of Dinkelspiel & Dinkelspiel ever receive a cent of it?—A. Absolutely not.

Q. You made no contribution and no division to anybody of any part of that fee?—A. No, sir; no, sir.

Q. Were you—and when I say "you" I mean your firm—the attorneys for the Fageol Motors Co.?—A. For the receiver in equity of the Fageol Motors Co.

Q. That is what I meant, Mr. Dinkelspiel. May I amend the question? Was your firm the attorneys for the receiver of the Fageol Motors Co.?—A. Yes, sir.

Q. And who was the receiver?—A. G. H. Gilbert.

Q. How long did that receivership last?—A. From February 1932 until sometime in July of 1932.

Q. In that matter, do you know who allowed or fixed the compensation of the receiver and his attorneys?—A. Yes, sir; the referee in bankruptcy at Oakland, Calif., Burton K. Wyman.

Q. Did Judge Louderback, the respondent here, have anything whatever to do with fixing those fees?—A. No, sir.

Q. In the application made, how much was requested as fees of the attorney and the fees of the receiver?—A. The attorneys requested $10,000 and the receiver $6,000 or $6,500; I do not recall the exact amount.

Q. In open court upon the hearing of that application, did the creditors consent to the payment of those amounts?—A. Yes, sir; those allowances were made by us after several conferences with the creditors, and made at their suggestion as to a reasonable fee to ask for.

Q. Mr. Wainwright was the representative of the largest unsecured creditor?—A. He was.

Q. And Mr. Ross was the representative of the Waukesha Co., the next largest unsecured creditor?—A. He was.

Q. Were both of them present in court at the time of the application for fees?—A. I believe so.

Q. And did they, as well as the other creditors present, consent to the allowance of $10,000 as attorney fees, and $6,500 as fees of the receiver?—A. Absolutely.

Q. And after their consent, what order did the court make?—A. It allowed the attorneys $6,000 and to the receiver $4,500.

Q. Did anyone except Dinkelspiel & Dinkelspiel receive any part or portion of that fee?—A. No, sir.

Q. No division of any part or portion was made to Judge Louderback or anyone else?—A. Absolutely not.

Q. By the way, did Mr. LaGuardia, when in San Francisco, examine the bank accounts of Dinkelspiel & Dinkelspiel?—A. He did.

Q. Were they all turned over to him, together with the vouchers and checks?—A. Yes, sir.

Q. Was that before the hearing which took place subsequently in San Francicco?—A. Prior to the hearing and during the pendency of the hearing at San Francisco.

Q. Did you at that time furnish to him all information and all data relating to your bank accounts that he requested?—A. Yes, sir.

Q. In either the Sonora Phonograph matter or the Golden State Asparagus matter, was there any litigation?—A. There was no litigation in the Sonora Phonograph Co. There was some in the Golden State Asparagus Co.

Q. How many suits did you commence in the Golden State Asparagus Co. case?—A. I think, up to the present time, five.

Q. Did at least one of them go to trial?—A. Yes, sir; one case was tried before Judge St. Sure in the Federal court at San Francisco.

Q. Did your firm try it?—A. Yes, sir.

Q. Did that result in a judgment in favor of the receiver?—A. It did, sir.

Q. For how much money?—A. Seventeen-odd thousand dollars.

Q. In that matter did you employ, or did the receiver under your instructions employ, a firm of accountants to make an audit?—A. We employed a firm of accountants in the Fageol Motor Co. matter.

Q. Who was that firm of accountants?—A. Lybrand, Ross Bros. & Montgomery.

Q. At whose suggestion or request did you employ those accountants?—A. At the suggestion of Mr. Wainwright, of the bank, and at my own suggestion.

Q. When you employed those accountants, did you have any understanding with them as to what the maximum charge or fee was to be?—A. Yes, sir.

Q. What was it?—A. Not to exceed $5,000.

Q. Did you take that up with Mr. Wainwright representing the creditors, and did it meet with his approval?—A. It did.

Q. Subsequently a bill for how much was received from those accountants?—A. Some fifteen and odd thousand dollars.

Q. Did you oppose the bill?—A. When the bill was submitted, the equity receivership had terminated——

The PRESIDING OFFICER. Answer the question "yes" or "no", and then explain if you care to.

The WITNESS. Yes.

By Mr. LINFORTH:

Q. After the Fageol Motor Co. went into bankruptcy and Mr. Street was appointed as receiver, did you cooperate with him in opposing that bill?—A. I did.

Q. The other receivership matter in which you represented the receiver was the Prudential Holding Co.?—A. Yes, sir.

Q. And Mr. Gilbert was the receiver in that matter?—A. Yes, sir.

Q. How long did that receivership last?—A. About a month or 6 weeks.

Q. Did you take any part in the proceedings made to dismiss the receivership?—A. No, sir.

Q. Did you apply for or did you receive any compensation in that matter?—A. No, sir.

Q. Did the receiver apply for or receive any compensation in that matter?—A. No, sir.

Q. Then, am I correct in saying that the only compensation you ever received in any matters under appointment by Judge Louderback, where you represented the receiver, was in the three matters you have already referred to?—A. That is correct.

Mr. LINFORTH. You may take the witness.

Mr. KING. Mr. President, I submit two interrogatories dealing with the fee of $20,000.

The PRESIDING OFFICER. The clerk will read the interrogatories.

The legislative clerk read as follows:

Q. Was the reasonable value of the legal services of your firm worth the amount allowed, $20,000?

The WITNESS. In my opinion it was, sir.

Q. What was the provision of the statute which you state authorized the payment of $20,000?

The WITNESS. The Senator misunderstood my answer. There is no provision in the statute providing for compensation to attorneys for receivers or trustees. The reference I made is that the receiver's compensation in that case was pursuant to the bankruptcy act.

The PRESIDING OFFICER. The managers on the part of the House may cross-examine.

Cross-examination by Mr. Manager BROWNING:

Q. Mr. Dinkelspiel, what other cases, representing receiverships in other courts than Judge Louderback's, has your firm been in since your father's death?—A. We represented the receiver in the American Radio Stores, a case before Judge St. Sure.

Q. Who was the receiver?—A. Bartley C. Crum. We represented a case of Hirsh Millinery Co., where the receiver was Morris Rodgers, appointed by Judge Kerrigan.

Q. What were your fees in each of those cases?—A. The fees in the American Radio Stores were some $2,000, as I recall at the present time.

Q. And in the other case?—A. I do not recall, Mr. BROWNING.

Q. Who knows that?—A. The court records would show it. I have not refreshed my memory on it for some time.

Q. It was less than $2,000, was it not?—A. I believe so.

Q. How long did the Sonora Phonograph Co. case last?—A. Seven months, approximately; 6 or 7 months.

Q. This concern was conducted for a part of that time as a going business?—A. Yes, sir.

Q. What other attorneys assisted in the conduct of this receivership?—A. In California?

Q. Yes.—A. None, except in one or two instances or several instances, the exact number I do not recall, where we engaged counsel in various cities of California and on the Pacific coast to assist in the collection of accounts.

Q. They were paid out of the estate?—A. Yes, sir.

Q. Was there a single claim in that case that went to litigation?—A. No, sir.

Q. And you attended to all the work yourself?—A. Yes, sir.

Q. How did you get into that case, Mr. Dinkelspiel?—A. We were requested by an attorney in New York City, who represented certain creditors, to file a petition for the appointment of an ancillary receiver in California.

Q. Were you a member of an association or some list of collection attorneys that brought you that business?—A. No, sir.

Q. How did you get your connection with this concern?—A. I assume they knew of our firm. We are representatives in San Francisco in several law lists.

Q. What date did you receive your fee in that case?—A. The fee was allowed in two parts, one in May of 1930, and the balance of $5,000 in July of 1930.

Q. Your correspondent who requested you to file this petition for ancillary receiver was also in this same law list, was he not?—A. I do not know.

Q. Are you not acquainted with the lists in which you are listed?—A. No, sir; we are listed in probably 25 or 30. He possibly knew our firm from the Commercial Law League of America, of which at one time my father was president, and was prominent in its activities.

Q. Do you not know that is how you got it?—A. I do not know how we got it; no, sir. I assume by reason of the facts I have given you that our firm was known to the attorney in New York City.

Q. Did this correspondent of yours ever ask for a portion of this fee?—A. No, sir.

Q. Did he not ask you for a third of it under the commercial regulations as to the division of fees?—A. No, sir.

Q. Or no part of it?—A. We understood at one time——

The PRESIDING OFFICER. Answer that "yes" or "no" and then explain afterward.

The WITNESS. He never asked for it. May I explain?

The PRESIDING OFFICER. Yes.

By Mr. Manager BROWNING:

Q. Yes; go ahead and explain.—A. It had been customary, and still is customary, when legal matters are forwarded from these law lists which I have described, that the receiving attorney is entitled to two thirds of the fee which may be allowed, and the forwarding attorney one third. We assumed at that time that it would be proper, in view of the custom, that he would receive one third of any fee which we were to obtain. During the course of that administration the United States Supreme Court rendered a decision frowning upon that procedure, and on the strength of that decision we advised him that, regardless of whether he anticipated

receiving a fee from us or not, he was not to receive any, and there never was any division of fee with that party.

Q. Was your father living at the time you filed this petition?—A. Yes, sir.

Q. How much of your time each day did you put in in the administration of this receivership during that 6 months?—A. I would approximate 3 or 4 or 5 hours a day. It is all set forth in a verified petition with the court papers, Mr. BROWNING.

Q. The last appropriation that was made to you was contested by every interest in the case except the receiver, was it not, and especially by the Irving Trust Co.?—A. Yes, sir.

Q. In the Golden State Asparagus Co. case, Mr. Fox and Mr. Richter were just as active as your firm in the administration of that receivership, were they not?—A. Absolutely not.

Q. You do know that they stopped the forced sale——A. They did not.

Q. (Continuing.) Of the property, before you were appointed as attorney in the case?—A. They did not.

Q. When were you appointed?—A. We were appointed on—I have forgotten the exact date in September 1930.

Q. How many days after Mr. Edwards was appointed as receiver were you appointed?—A. I think 1 or 2 days.

Q. You do know that the forced sale was stopped the day he was appointed, do you not?—A. I know that the president of the bank told us that he would have no further dealings with Mr. Fox, and it was through our efforts that the sale was continued.

Q. Although it was 2 days before you were appointed that the sale was actually stopped, you are willing to say that now?—A. No, sir; the sale was, as I recall it, noticed to be held 2 days thereafter. Prior to the receivership a sale had been noticed, and the bank decided sufficient notice had not been given. It accordingly readvertised the sale to be held after the appointment of Mr. Edwards as receiver.

Q. And that was the day he was appointed?—A. No, sir; after, as I recall.

Q. Do you mean to say now that it was after you were appointed as the attorney?—A. That the sale was to take place; yes, sir, as I recall it at this time.

Q. You also know that Mr. Fox and Mr. Richter and their firm were very active in helping prepare all these leases and transactions you have described as coming within your services in the case?—A. No, sir.

Q. Did they do any part of it?—A. We prepared every lease that is described.

The PRESIDING OFFICER. Answer the question.

By Mr. Manager BROWNING:

Q. Did they do any part of it?—A. Simply consulted with us after we had prepared the leases.

Q. But you did consult with them about all of these transactions?—A. Absolutely.

Q. And got their advice on it?—A. We submitted it to see if it would be satisfactory to them and if they had any suggestions to make.

Q. And you had their full cooperation?—A. Yes, sir.

Q. Have you been paid your fee of $14,000?—A. Been paid $5,000.

Q. Why have you not been paid it all?—A. Because we did not feel that in view of the present economic conditions it would warrant drawing out any more money from the company.

Q. Was there any in there to draw out?—A. There was a potential amount at that time, but since the allowance was made the price of asparagus has dropped from 4 cents a pound to 2 cents a pound.

Q. Can you pay fees out of potential matters?—A. Yes, sir; we anticipated that the crop which had been harvested or was ready to be sold at that time would be sold at the then existing market price.

Q. What they had for sale was asparagus, was it not?—A. Yes, sir.

Q. And you could not take your fee in asparagus, of course?—A. We do not expect to, sir.

Q. In the Fageol Motors case, what were the assets of that concern, do you recall?—A. The assets were in excess of a million dollars in round figures.

Mr. KING. If I am not violating any rule, I wish to inquire what was the case to which counsel referred?

Mr. Manager BROWNING. The Fageol Motors Co.

Q. What was the nature of their business?—A. Automobile assembling and manufacturing plant.

Q. Did it have an extensive business up and down the Pacific coast?—A. Yes, sir.

Q. How many States did it stretch over?—A. Washington, Oregon, Utah, and California principally.

Q. They not only manufactured bodies and other parts of automobiles but they had an assembling plant, did they not?—A. Yes, sir.

Q. And they had sales agencies and service also?—A. Yes, sir.

Q. How long did this receivership last?—A. From February 17, 1932, until some time in July of 1932.

Q. How much of your time did you devote to that concern?—A. I should say on an average of half a day for 4 or 5 days a week.

Q. For how many months?—A. During the first part of the receivership, not so much after we had the thing running along.

Q. How long do you count "the first part of the receivership"?—A. About 3 months.

Q. And after that time what part of your time did you devote to the business?—A. I cannot say offhand, Mr. BROWNING. May I refer you to the account which we filed?

Q. Can you approximate it?—A. I would not dare do that, sir.

Q. But you did have something to do with it every day?—A. Practically every day; yes, sir.

Q. Did you have any litigation?—A. We filed some suits for the company.

Q. How many?—A. I think three direct suits as such.

Q. Did they go to trial?—A. Two of them did.

Q. And were they on matters of collection?—A. Yes, sir.

Q. Were you successful in those suits?—A. Yes, sir.

Q. How much did you recover for the concern?—A. Several hundred dollars; they were small matters.

Q. Do you know how much money came into the hands of the receiver in this case?—A. I would not give an opinion on it. The records will show that.

Q. Approximately how much? You gave the amount in some of these other cases. Are you not as familiar with this one as with the other cases?—A. No; I am not, without referring to the records. I have a notation in my file, and if I might refer to that I could give it.

Q. Please refer to it.—A. (After examining file.) The receiver collected approximately $120,000 in accounts receivable and liquidated about $150,000 of the inventory.

Q. That was about $270,000 that he, in fact, handled?—A. Converted into cash, I am referring to, sir.

Q. Yes. Now, in comparison to the other receivership, in the Sonora Phonograph case, did you do as much work in this one as you did in that?—A. About the same.

Q. And did you do as much work in this as you did in the Golden State Asparagus case?—A. No, sir.

Q. You did not do as much in this?—A. Well, probably about the same; it is hard to say exactly.

Q. This was straight liquidation, was it not?—A. Are you referring to the Fageol Motors case?

Q. Yes.—A. No, sir.

Q. It was a going concern and operated during the receivership?—A. Yes, sir.

Q. The Golden State Asparagus case is a going concern?—A. Yes, sir.

Q. There is no liquidation about it?—A. No, sir.

Q. You say the employment of these accountants was agreed to by Mr. Wainwright?—A. May I recount the circumstances of that, sir?

Q. Yes.—A. Two or three days after the receiver was appointed we received a report or statement from a man named Crook, who had been an accountant of the company.

Mr. Wainwright brought that to my office and we discussed it together and decided that it was absolutely no good to us in determining any sort of a policy in connection with the company. We decided that it would be necessary to engage reputable accountants to handle the work. I discussed the matter with Mr. Bronson, who represented the defendant company, and he approved of the suggestion, stating that the cost would not be too great. I asked him if he had any suggestion as to whom to employ. He said "no." I then interviewed 2 or 3 or 4 people in reference to prices in connection with the work. I finally determined, on behalf of Mr. Gilbert, that Lybrand, Ross Bros. & Montgomery, who, I understand, are one of the largest accountant firms in the United States, be employed for the reason that they had branches in every city where the company had branches. They submitted a certain statement to me of what the charge would be, and we agreed that it would be about $5,000. I said that the ultimacy would have to be subject to the approval of the court, but I wanted to understand about what the charge would be at the present time. I submitted that to Mr. Wainwright, and he approved it.

Q. What did you tell the auditor that you wanted in the way of a report; just what information did you want?—A. We had to have a comprehensive balance sheet, the segregation of the accounts receivable, and the segregation of commercial accounts receivable that had been assigned and discounted with various finance companies.

Q. What you were after was a balance sheet?—A. Yes, sir.

Q. Did you have a definite contract with these people that the charge was not to exceed $5,000?—A. As I explained to you, it was agreed between us that the fee would be around $5,000, but I specifically put in the order that any allowance to them would be made subject to the approval of the court, which I felt was a sufficient safeguard against any overcharge.

Q. Then you did not have any agreement with them at all, except that the court would fix the fees for the auditor. Is that right?—A. No, sir; I had an agreement with them; I had an understanding with them.

Q. Why did you leave it to the court?—A. Because I knew that any agreement in an equity receivership must be subject to the court's approval. I had no authority to engage them, and I had no authority to bind them as to any particular fee.

Q. But you did not put into the order "not to exceed $5,000", did you?—A. No, sir.

Q. You did tell Mr. Wainwright and Mr. Bronson that the fee would not exceed $5,000?—A. Yes, sir. That was my understanding.

The PRESIDING OFFICER. May the Chair inquire what was finally paid in that case?

Mr. BROWNING. Will the witness answer?

The WITNESS. I do not know, sir, because I was not interested in the case when it came up; it was compromised; I know that.

By Mr. Manager BROWNING:

Q. The record does show that it was $11,000 or $12,000 was it not?—A. I do not know; I know there was a compromise.

Mr. LINFORTH. Mr. President, I do not think that counsel should make a statement not in accord with the record of the testimony. It was reduced to $6,000 or $7,000.

Mr. Manager BROWNING. Mr. Peterson testified, in chief here, that it was between $11,000 and $12,000, and put it in the record, and it is in the record here now.

The PRESIDING OFFICER. If the witness does not know, he need not answer.

By Mr. Manager BROWNING:

Q. You say you had a lawsuit in the Golden State Asparagus case in which you made a recovery. What was the nature of that case?—A. When the receiver was appointed it appeared that the Golden State Co. had advanced some $15,000 to a man named Neilson, who is president of the Golden State Asparagus Co. Neilson was in partnership with two other people. We discussed the situation with Mr. Richter, who was attorney for the company, and Mr. Richter advised us that the Golden State Co., and, therefore, the receiver, had no claim other than a partnership accounting. We checked into this situation on our own account and advised the receiver, against Mr. Richter's advice, that, in our opinion, we had a claim for moneys advanced and that the Golden State Co. was not a partner of this other outfit and when we could not obtain a settlement from them filed suit in the Federal court, which was heard before Judge St. Sure, and judgment was rendered in the receiver's favor for the sum of seventeen-odd thousand dollars.

Q. Mr. Dinkelspiel, why did you not apply for a fee in the Prudential Holding Co. case?—A. Because I checked into the law and I found, in view of the order made by Judge Louderback abandoning the receivership, that we had no legal right to do so.

Q. You mean by that that the court could not allow a fee for the services you had already rendered?—A. No; in view of the court's order invalidating its order appointing a receiver; no, sir. I checked the law on that and I believe I am correct in my conclusion; otherwise, though the services rendered were not very great, I should have filed an application.

Q. Then, your understanding of the law is that when the judge or any court invalidates the appointment of a receiver he is entitled to no compensation?—A. Yes, sir.

Q. When was the first information you had of the origin of the Prudential Holding Co. case?—A. Mr. Gilbert called me and said he had been appointed receiver.

Q. What was the first case you were in with Mr. Gilbert?—A. The Sonora Phonograph Co. case.

Q. How did he happen to select you as attorney in that case?—A. He was named by Judge Louderback, and we requested of Judge Louderback that we be retained in that case as counsel for Mr. Gilbert and the Irving Trust Co. as coreceivers. The judge, I imagine, instructed Mr. Gilbert to so do.

Q. Whom do you mean by "we"?—A. I am referring to our firm, sir.

Q. Was your father living at that time?—A. Yes, sir.

Q. He was really the head of the firm?—A. Yes; at that time, sir.

Q. Who else were members of the firm at that time?—A. My brother and myself.

Q. Did you personally know Mr. Gilbert before that time?—A. No, sir.

Q. Where did you first meet him?—A. Either at my office or at the chambers of the judge.

Q. When Mr. Gilbert went to the chambers of the judge and qualified, were you there?—A. I do not recall, sir. It was 3 years ago, and I do not remember where I did first meet Mr. Gilbert. It was either out there or at my office.

Q. In that first conversation Mr. Gilbert told you that he expected to appoint John Douglas Short, did he not?—A. Yes, sir.

Q. And you told him that you were to be appointed?—A. We expected to be appointed; yes, sir.

Q. Well, who else did he talk to before he made the recommendation of you to the court, except you?—A. I have no idea.

Q. Did he make a recommendation then and there when you first talked to him? Did he sign the petition for your appointment at that time?—A. No, sir.

Q. How long after that did he sign it?—A. I would say within 24 or 48 hours; I do not recall the exact time, sir.

Q. Did he come to your office and sign the petition?—A. Yes, sir.

Q. You drew it for him?—A. Yes, sir.

Q. How did you get the notice that you were to be the attorney in the Fageol Motors case?—A. Through Mr. Gilbert.

Q. Did he call you or come to see you?—A. I believe he phoned me and then came down to my office.

Q. What time of day did he phone you?—A. I think it was some time early in the afternoon.

Q. Would you say before 2 o'clock?—A. I would not say. It was around that hour. I could not say. I made no note of the hour.

Q. What time did you qualify?—A. I would say about 3 o'clock. I would say about an hour after he phoned, and I believe he came down to my office about an hour after that.

Q. You and he went to the judge's chambers then together?—A. Yes, sir.

Q. You were advised that you were to be appointed, and you had the orders drawn?—A. I assumed I would be appointed when Mr. Gilbert called me and asked me to act, and I prepared the orders and asked him, as I remember it, to come to my office, and that we would arrange to obtain the necessary bond for his qualification and such other papers as are necessary to properly qualify a receiver.

Q. You then went to the judge's chambers before you went to the clerk's office to qualify?—A. You cannot qualify in the clerk's office until you go to the judge's chambers and have the judge approve the bond.

Q. I ask if you did not go to the judge's chambers before you went to the clerk's office to qualify.—A. Yes, sir; to have the bond approved.

Q. Did the judge at that time sign the order to approve the bond?—A. Yes, sir.

Q. And you took it to the clerk's office and qualified?—A. Yes, sir.

Q. The first thing you did after that was to call Mr. Bronson, was it not?—A. I took a taxicab to my office and phoned Mr. Roy Bronson.

Q. He asked you at that time if Gilbert had already qualified?—A. Yes, sir.

Q. And you told him that he had?—A. Yes, sir.

Q. Did he tell you why he asked you that?—A. No, sir.

Q. Did he then make an engagement with you to talk to you about the case?—A. I asked him if I could make an appointment with him for that afternoon, and he advised me it was too late in the afternoon and we would make it for the morning. There were 5 or 6 various interests involved, and he made an engagement, as I recall, for 11 o'clock the following morning.

Q. To refresh your memory, did he not request you at that time for a conference, and you told him you could not see him until next morning?—A. No, sir. To the best of my recollection, I asked him for a conference that afternoon, and, to the best of my recollection, he said it was too late that afternoon, that we would make it in the morning. I may be mistaken, but that is the very best of my recollection.

Q. You did have a conference the next morning?—A. Yes, sir.

Q. Mr. Gilbert went with you?—A. Yes, sir.

Q. These men at that time cross-examined Mr. Gilbert on his qualifications for this work?—A. Very thoroughly.

Q. They told him they found him thoroughly incompetent so far as his experience and his attitude were concerned?—A. I did not hear them make any statement to his face to that effect, sir.

Q. Not to that effect?—A. No, sir. They merely asked questions in regard to his various qualifications and activities, to which he answered, and what conclusion of mind they came to I do not know because to the best of my recollection they did not express it so I could understand it.

Q. Do you not know they told him that his responses did not satisfy them at all, or his qualifications?—A. No, sir; I do not recall them having made that statement.

Q. Or that in substance?—A. No, sir.

Q. At that time they asked you and asked him to agree, if he stayed in, to let the creditors' committee run the estate, did they not?—A. Not in that language; no, sir. They asked us to cooperate with them.

Q. What did you understand by that?—A. At that particular moment I did not understand it until I had a conversation at 2 o'clock that afternoon with Mr. Wainwright.

Q. What did he state in that conversation?—A. He advised me that he was very disappointed at first in the appointment of Mr. Gilbert, but that he felt satisfied after attending the meeting that morning. His exact language was that he was afraid of the appointment of a stranger; that he had been interested, or his bank had been interested, in another case in Oakland where another receiver had been appointed, and, in his language, the receiver had run roughshod over the creditors and that they had had an awful time managing the receiver, but that with the assurance of Mr. Gilbert and ourselves that we would work together with them and be guided by such suggestions as they had, he would be satisfied.

Q. In fact, he asked you to consent then and there to let them run the receivership, in effect, did he not?—A. No, sir; absolutely not.

Q. But at that time you did agree to do everything they asked you to about the estate?—A. Certainly. They were the parties in interest and we wanted to work along with them.

Q. They told you then there would not be any big fees in this case if it stayed in receivership?—A. They asked about the fees and we said, "Gentlemen, you need not worry, because before any application for fees be made we will submit the matter to you and have you pass upon it."

Q. They insisted there would not be any big fees in that case if it stayed in receivership?—A. There was no insistence. There was no enmity of any kind. It was a gentlemen's discussion and we met them voluntarily in answer to their questions. There was no insistence on their part, though.

Q. You do not consider that you made an agreement at that time to keep the fees below the ordinary fees allowed in matters of this kind?—A. We only discussed the matter of fees as I pointed out; that we would take it up with them when the proper time came.

Q. You made no other assurance than that about the fees?—A. No; not as far as I can recall.

Q. Do you not know at that time you and Mr. Gilbert agreed that they should employ a man who knew the business and send him out there to have active charge of it?—A. At that time, no, sir; absolutely not at that time.

Q. At what time did you do it?—A. That afternoon Mr. Wainwright and Mr. Gilbert and myself went over to Oakland. Another creditor was to come, but did not appear. We went over the situation in a hurried manner and found out at that time that the president of the company, a man named Bill, had as his assistant and sales manager his son, who was drawing, in our opinion, a high salary and had run the company behind the previous year some $700,000. We decided the first thing to do was to put in a new manager, and that, therefore, if we let the so-called "Bill family" go, we would have to get someone else in. Mr. Wainwright said, "I can recommend an excellent man to you", which he did, and that man was Mr. Lundstrom. Meanwhile certain other creditors recommended a Mr. McKenzie. Mr. Gilbert and I interviewed both of them, and finally we discussed the matter together and with Mr. Wainwright, and in view of Mr. Wainwright's nomination of Mr. Lundstrom we determined to take him and let the Bill family go.

Q. At that time you did employ Mr. Lundstrom and put him in full charge of the business?—A. No, sir. He was employed a week afterwards.

Q. After you did employ him, you put him in charge of the business?—A. I should not say full charge.

Q. What did you give him to do out there? What authority did he have?—A. I was not out there very much myself, and it would be difficult to answer; but I believe he had charge of the manufacturing and assembling and to some extent of the sales.

Q. What else was there to do and have charge of?—A. There is quite considerable work to do.

Q. I mean what other branch of the industry was there to have charge of?—A. It was determined by Mr. Gilbert, when he stepped in there, together with the cooperation of the other creditors, that as a matter of economy, the branches at Los Angeles, at Seattle, at Tacoma, at Portland, and at Salt Lake City should be immediately closed.

Q. Who determined that?—A. I think Mr. Wainwright and Mr. Lundstrom and Mr. Gilbert and myself had a meeting.

Q. Who suggested it?—A. I could not say.

Q. Do you not know that Mr. Gilbert never made the suggestion?—A. I know that it was Mr. Gilbert's suggestion that the Bills be removed from the business, and it was a valuable suggestion.

Q. I am talking not about the Bill family but about the suggestion of closing those branches. Do you not know Mr. Gilbert never made that suggestion?—A. I do not know. I could not say yes or no.

Q. Do you not recall that Mr. Wainwright was the man that actually suggested it, and you took his suggestion?—A. I do not think that is absolutely true. I do not know how many suggestions Mr. Wainwright made and how many Mr. Gilbert made, but we were all meeting together on and off and discussing the situation as best we could.

Q. Tell me one suggestion Mr. Gilbert made about the conduct of the business, an independent suggestion.

The PRESIDING OFFICER. That you know of.

The WITNESS. As I recall, Mr. Gilbert suggested to me in reference to the discount companies who owned some $800,000 worth of contracts which the company had previously discounted, that we enter into an agreement with them whereby we would be allowed to resell the motor trucks which had been repossessed, charging the finance company the expense of resale and the expense of repair. That meant a great deal to the company.

By Mr. Manager BROWNING:

Q. You do not know whether Mr. Wainwright suggested that to Mr. Gilbert before he suggested it to you, do you?—A. No; I cannot say that.

Q. What had been Mr. Gilbert's previous experience before this appointment?—A. He told me he was with the Western Union Co.

Q. The Western Union Telegraph Co.?—A. Yes, sir.

Q. Do you not know that throughout the Sonora receivership he worked regularly for the Western Union Telegraph Co.?—A. I know it, because he told it to me; yes, sir.

Q. When he began in the Fageol Motor Co. case he also retained for some time or at that time did have his connection with the Western Union?—A. I understand, at the time he became receiver of the Fageol Motor Co. he resigned his position with the Western Union Co.

Q. Do you know whether he resigned or whether he was fired?—A. I know he was not fired. I understand he resigned.

Q. Was there any trouble between him and the company?—A. I did not know of any.

Q. Do you not know he had to take his choice between that and this?—A. I do not know anything about it.

Q. How do you know he was not fired?—A. Possibly I do not, but as I stated before I do not know anything about the fact he was working for them other than he told me.

Q. But you did say you knew he was not fired?—A. Yes, sir; that is what he told me.

Q. Was he in the operating part of the Western Union or in the business part of it?—A. I cannot answer anything about it, because it is all hearsay about what he told me.

Q. What did he tell you he was doing in the Western Union Telegraph Co.?—A. I think he was traffic manager, night traffic manager, as I recall.

Q. Who were the parties that brought the suit that resulted in this ancillary receivership?—A. In which case is that?

Q. The Fageol Motors Co.—A. I do not understand the question.

Q. I mean the Sonora Phonograph Co. case.—A. The Arrow Parts Electric Co., as I recall.

Q. Who were the lawyers?—A. A lawyer named Robert I. Blum, of New York City.

Q. You say the first you heard of the Prudential Holding Co. case was when Mr. Gilbert called you and asked you to represent him as his attorney when he was to be appointed receiver?—A. That is my recollection; yes, sir.

Q. Do you know Kearsley, from Los Angeles, the attorney in that case?—A. I do now; yes, sir.

Q. Do you know James H. Stephens, who was named a vice president of the company at that time?—A. I do, sir.

Q. You knew him at that time, too, did you not?—A. No, sir.

Q. In fact, Mr. Kearsley and Mr. Stephens came to your office before the petition was filed to talk to you about it, did they not?—A. They talked to me. They met in my office.

Q. What day?—A. I think the morning they went out to court.

Q. Was it that day or the day before? Are you certain?—A. No; I am not certain. I do not know.

Q. Did Blum send you down the petition in the Sonora Phonograph case?—A. What do you mean by sending down?

Q. A draft of the petition that was to be filed for ancillary receivership.—A. No; not that I recall. We prepared our own petition.

Q. Did you see Kearsley and Stephens either the morning that the petition was filed at your office, or the day before?—A. I do not remember having met them.

Q. But you do recall that they were there?—A. I remember that they came into my office, but I do not remember personally having met them.

Q. What purpose did they come in there for?—A. Mr. Kearsley phoned and said he had an appointment with Mr. Stephens and asked if he could use our office. We had done court business with their firm in Los Angeles.

Q. And they left your office and went to apply for the receivership?—A. I assume so.

Q. After the receivership was granted, you went with Gilbert to the office of the concern in Oakland?—A. That afternoon. It was Saturday afternoon.

Q. How soon after the petition was filed did you qualify as attorney for the receiver?—A. I do not know when the petition was filed, but we qualified about—it was after 12 o'clock of that day, of Saturday.

Q. And you got to Oakland before 1, did you not?—A. I do not know. It takes 40 minutes to go from San Francisco to Oakland. I know that Judge Louderback had gone for the day. We qualified before the United States commissioner, and we proceeded immediately to Oakland. Just the exact time, I cannot say.

Q. You saw Mr. Hawkins out there that day; did you?—A. No, sir.

Q. You did see him on Monday following?—A. Yes, sir.

Q. You saw Miss Lind out there that day?—A. I assumed that is who she was. I did not know her at that time.

Q. You saw the lady who was the secretary of the concern?—A. I found out later she was the secretary. I did not know it at that time.

Q. She had in a long-distance telephone call, and requested to remain until she could complete that, to Mr. Hawkins, the attorney in Los Angeles, did she not?—A. I do not remember that.

Q. You do not remember her requesting that she remain for that?—A. No, sir.

Q. You do recall that——A. I do not. It is not a question of recalling. I do not remember; yes or no. I will not deny that she may have done it.

Q. But you do recall that she was asked to vacate, and a padlock was put on the door?—A. Well, it was not as severe as that, sir. What happened was, it was a Saturday afternoon; there was no business, and Mr. Gilbert asked me what he should do to take control of the business and protect himself, having been appointed as receiver. I suggested to him the only thing that could be done, in view of the fact that we were to meet Mr. Hawkins on the following Monday, and no business would take place between that time, would be to have the lock on the door changed, and leave the business in status quo.

Q. And you were advised at that time—you and Mr. Gilbert—that there were three other corporations that had their offices in that same room and on that same floor?—A. We were either advised at that time or the following Monday.

Q. When you saw Mr. Hawkins on Monday he made the contention to you that the receivership was absolutely void at that time, did he not?—A. Yes, sir.

Q. And he warned you that you were trespassers?—A. Not exactly that.

Q. What did he tell you about it?—A. He talked something about the violation of the fourth amendment of the United States Constitution, which I did not understand, and then he said that he thought he would move to set aside the receivership on that ground. I advised him that he was certainly within his rights; that I would do nothing to prevent it. He said he could not determine that until he spoke to a Mr. Beck, who, he advised me, was president of the company, and who, I understood, was in Idaho or Montana.

Q. But you do know the assets of this concern were turned over under more or less violent protest from the attorney and from the officials of the concern?—A. As a matter of fact, sir, there were no assets.

Q. Had it not been alleged in the petition that it was worth over a million dollars?—A. I knew nothing about the allegations. I only am telling you what I found.

Q. You were attorney for the receiver, and you did not know the allegations in the petition?—A. I knew them; but the allegations may or may not have been true. I am merely recounting to you what I found when I appeared at the Prudential Holding Co.'s place of business.

Q. You do know that after the dismissal of the receivership this concern operated for several months after that time without any legal interference?—A. I do not know anything about it, but I do not know what they could have operated on.

Q. They had a lot of real estate; did they not?—A. They had four pieces of real estate, all of which were under foreclosure or subject to an attachment lien.

Q. Do you mean that there was actual foreclosure in process at that time?—A. Subsequently I was named one of the attorneys for the receiver in bankruptcy, and the only work I did was to petition the court for restraining orders to try to protect the equities in those properties.

Q. You were named as receiver in bankruptcy of this concern?—A. One of the attorneys for the receiver.

Q. Who named you there?—A. Judge Louderback.

Q. How many days was that before the dismissal of this equity receivership?—A. I do not know. I do not have the dates in my mind, sir.

Q. As a matter of fact, it was on the 30th day of September that you were named, was it not, as attorney for the receiver in bankruptcy?—A. Well, if you say it was, that is the date. I do not know the dates.

Q. And you qualified on October 2?—A. Whatever the records will show. I do not recall the dates.

Q. Who was appointed receiver in bankruptcy in that case?—A. Mr. Gilbert.

Q. By whom was he appointed?—A. By Judge Louderback.

Q. Did you draw the petitions in those appointments also?—A. No, sir; I do not recall that we did. As a matter of fact, our firm was not named as attorneys for Mr. Gilbert in that proceeding. The firm of Torregano & Stark were named as his attorneys, and A. B. Kreft, and they requested that a member of our firm be joined with them because of our knowledge of the conditions; and my brother, Martin J. Dinkelspiel, I believe alone, appears as attorney. The firm does not appear; and the only active part we took was, as I stated, in trying to prevent the foreclosures of these valuable equities in real estate.

Q. I thought you said a while ago that they did not have any assets to protect.—A. They did not, but we made the best effort we could to find some assets.

Q. You now say they were "valuable equities", do you not?—A. Well, I change the word "valuable", because they had no value.

Q. Why do you change it?—A. Possibly I meant the word facetiously; but there was no value to those properties.

Q. Mr. Dinkelspiel, how much of your testimony here before the Senate has been facetious?—A. None of it, sir.

Q. How do you explain that answer, then, that you made it facetiously?—A. I am sorry, sir; but I did not mean it in the sense of having any value.

Q. Was the Kreft that you mentioned the one who testified here yesterday before the Senate?—A. Yes, sir.

Mr. Manager BROWNING. I think that is all, Mr. President.

Mr. LINFORTH. Just a question or two more, Mr. President.

Redirect examination by Mr. LINFORTH:

Q. Mr. Dinkelspiel, in the work of the attorneys for the receiver in the four matters that you refer to, did you also have the assistance and the cooperation of your brother Martin?—A. Yes, sir.

Q. He also acted with you in each of those matters?—A. Yes, sir.

Q. With reference to the assets of this Prudential Holding Co., to your knowledge did the receiver get possession of anything tangible?—A. I think an amount less than $200 or $300 in the savings bank, and he collected some rents from the premises during the period of foreclosure, all of which rents were practically paid back for operating expenses, so that he turned back to the company some thousand dollars, I think it was.

Q. The bank that you refer to was where? In what State did you find a bank account of this concern?—A. In Reno, Nev.

Q. Was that the only bank account you could find that this $2,000,000 concern had?—A. To the best of my recollection.

Q. Mr. Hawkins was the regular attorney for this concern, was he?—A. I understand so.

Q. Did you have a talk with him as to whether or not the company had any assets, or whether it was bankrupt?—A. I talked with Mr. Hawkins on the Monday that I went to Oakland after the Saturday the receiver was appointed.

Q. What did he tell you at that time with reference to the financial condition of the company, if anything?—A. His conversation to me at that time was, "Well, what are you doing with an equity receivership in here?—What are you going to do with the assets?" I said, "Why?" He said, "There are no assets." He said, "The value of the entire firm here is worth about $250."

Mr. LINFORTH. I have no further questions.

Mr. Manager BROWNING. That is all, Mr. Witness.

The PRESIDING OFFICER. Call your next witness.

(The witness started to leave the stand.)

Mr. LINFORTH. May I recall Mr. Dinkelspiel on one matter?

The PRESIDING OFFICER. You desire to recall him for another question on redirect examination?

Mr. LINFORTH. Yes, Mr. President.

The PRESIDING OFFICER. Proceed.

By Mr. LINFORTH:

Q. There is one matter I overlooked, Mr. Dinkelspiel. Where is your brother Martin at the present time?—A. He is in San Francisco at the present time.

Q. Is he ill or otherwise?—A. He was operated on about 4 weeks ago, and was confined to the hospital for 2 weeks, and was just back to his office for the first time a few days prior to the time I left San Francisco to come to Washington.

Q. Is his condition such as to enable him to come here?—A. He was so advised by his doctor.

Q. That it was, or was not?—A. That it was—that his condition was such that he would not stand the trip.

Mr. LINFORTH. That is all.

Mr. Manager BROWNING. One more question, Mr. President.

By Mr. Manager BROWNING:

Q. Do you know anything about the "M" account to which your brother testified to Mr. LaGuardia in San Francisco last September, that was in the name of your father,

or something of that kind?—A. I know he had an "M" account; yes, sir.

Q. What was that account?—A. An "M" account is a special account that some of the San Francisco banks have, that allows you to withdraw at any time and pays you interest during the period of deposit.

Q. That was not in the name of your firm, was it?—A. No; it was my father's own personal account.

Q. Is that account still in existence?—A. No; it is not in existence any more—I do not believe so. I could not answer you definitely.

Q. Do you know how long it ran?—A. No; I do not, sir.

Q. It was a savings account?—A. Yes.

Q. And you and your brother had no connection with it?—A. No; as far as—I had none. I do not know about my brother. I do not think so.

Q. You know it was revealed at that time that considerable amounts of money were taken out and put back into this account?—A. I do not recall at the time. I have not looked at it since I went over the account with Mr. LaGuardia. I went over all my records with him very carefully on two or three occasions, as you recall.

Q. Were you present when your brother testified?—A. At San Francisco?

Q. Yes. I do not mean now, in the open hearing. I mean before Mr. LaGuardia in special room 2093.—A. I do not recall being present. I went over there with him, but I do not think I was there. I am not sure, Mr. BROWNING.

Q. Let me read you a portion of that testimony:

Getting right down to the point——

Mr. LINFORTH. Just a moment, Mr. President. We object to the reading of any portion of what is called "that testimony", being some private investigation being made by Mr. LaGuardia before there was any hearing on behalf of the committee. If anything was said at that time which may be the basis of a question for impeachment, it should be put in the proper way; and that statement, or testimony, as it is called, should not be read.

The PRESIDING OFFICER. If it is for the purpose of impeachment, the foundation has not yet been laid. Otherwise the Chair does not see the materiality of it.

Mr. Manager BROWNING. As a matter of explanation, I will say that Mr. LaGuardia, as a member of the committee, did have authority to swear witnesses and take proof on this direct question of the investigation of Judge Louderback. It is under that authority that he was acting. The witness was sworn and testified on that occasion. I am not inclined to press the matter, however, unless the Senate would care to hear it.

The PRESIDING OFFICER. Mr. Manager, does it pertain to the testimony given by this witness at a former hearing or some other witness?

Mr. Manager BROWNING. His brother.

The PRESIDING OFFICER. The Chair thinks the objection is well taken.

Mr. Manager BROWNING. Very well. That is all.

EXAMINATION OF G. H. GILBERT

Mr. LINFORTH. Please call Mr. G. H. Gilbert.

G. H. Gilbert, having been duly sworn, was examined and testified as follows:

Mr. LINFORTH. May I announce, Mr. President, that this witness, ever since he has been in Washington, has been suffering from neuritis in both knees; and it would be very difficult for him to stand.

Mr. KING. Mr. President, in view of the rule which we adopted requiring every witness to stand, and in view of the statement just made by the attorney for the respondent, I ask unanimous consent of the Members of the court that the rule be waived, and that the witness be permitted to be seated during the giving of testimony.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. KING. Mr. President, while I am on my feet I suggest that the microphone be adjusted so that he can speak directly into the microphone.

The PRESIDING OFFICER. You may proceed with the examination.

Direct examination by Mr. LINFORTH:

Q. Mr. Gilbert, will you state your name and your residence?—A. Guy H. Gilbert, 1600 California Street, San Francisco.

Q. Have you any objection to stating your age?—A. None at all; 50 years old.

Q. Are you a married man?—A. Yes, sir.

Q. Up to February 17, 1932, what was your business?—A. Night traffic manager for the Western Union Telegraph Co. at San Francisco.

Q. How long had you been an employee of the Western Union Telegraph Co.?—A. About 35 years.

Q. Covering your entire business life up to that time. Is that right?—A. Yes, sir.

Q. And you started with the Western Union Telegraph Co. in what position, and at what place?—A. As a clerk in Jacksonville, Ill.

Q. During the years that you were night manager of the traffic department of the Western Union Telegraph Co. where were you located?—A. At San Francisco.

Q. As traffic manager, did you have under your immediate supervision and control any other employees of the company?—A. I did.

Q. How many?—A. They ranged from 150 up.

Q. Up to how many?—A. Well, on special occasions, like Christmas Eve, or a heavy file of business, it would probably run 250 to 300.

Q. Would you state as briefly as possible the duties of night traffic manager of the Western Union Telegraph Co.?—A. My duties were organization, efficiency, economies, detailing the handling of traffic, taking care of emergencies that might arise, and directing about seven different departments.

Q. Did your duties require executive work?—A. They did; yes, sir.

Mr. Manager SUMNERS. Mr. President, I suggest that this witness be asked to state what his duties were.

Mr. LINFORTH. The witness has answered, Mr. President.

Mr. Manager SUMNERS. I am directing now a general objection to this character of testimony. This is a key witness, and we suggest that the witness is being led beyond the requirements to elicit the testimony.

The PRESIDING OFFICER. In other words, you object to the form of the question?

Mr. Manager SUMNERS. That is right, yes; and to the form of the examination generally.

Mr. LINFORTH. The question may be withdrawn.

The PRESIDING OFFICER. I think the objection is well taken as to a number of questions which the court has permitted right along.

Mr. LINFORTH. I will keep within the rule, Mr. President.

By Mr. LINFORTH:

Q. While acting as night traffic manager for the Western Union Telegraph Co., what were your hours of duty?—A. Four p.m. to midnight.

Q. Are you acquainted with the respondent Judge Louderback?—A. I am.

Q. How long have you known Judge Louderback?—A. Fifteen or sixteen or seventeen years.

Q. Do you recall how you became acquainted with him?—A. Yes, sir.

Q. Would you state, briefly, how it was, without going into details?—A. I first met Judge Louderback when he was running for police judge in San Francisco. I became active in his campaign at that time, and I have met him frequently ever since.

Q. From then on have you been good friends with Judge Louderback?—A. Yes, sir.

Q. Are you acquainted with Mr. W. S. Leake?—A. I am.

Q. How long have you been acquainted with Mr. Leake?—A. I would say from 15 to 20 years.

Q. Has he been a close friend of yours during that time?—A. Yes, sir.

Q. Has your wife been a patient of his?—A. Yes, sir.

Q. Is she a believer in the Christian Science faith or doctrine?—A. She is.

Q. Was that the reason——

Mr. Manager SUMNERS. Mr. President, I do not know the purpose of this examination and how far it is intended to go, but we suggest that until counsel has established the fact that Mr. Leake is a Christian Science healer, or however he desires to be designated, information as to the witness' wife's peculiar religious belief is not pertinent to this inquiry.

The PRESIDING OFFICER. I think the objection is well taken.

Mr. LINFORTH. Mr. President, merely for the benefit of the court, I desired at the outset to show the relations of the witness with Mr. Leake.

The PRESIDING OFFICER. I think one or two questions are enough along that line.

By Mr. LINFORTH:

Q. Have you, during your acquaintanceship with Mr. Leake, been a patient of his?—A. Yes, sir; to a limited extent.

Q. Mr. Gilbert, in the 5 years that Judge Louderback has been judge of the District Court of the Northern District, in how many cases have you been appointed receiver by him?—A. Four cases.

Q. In the 8 years that he was judge of the superior court of California were you appointed receiver by him in any case?—A. No, sir.

Mr. NORRIS. Mr. President, I could not hear the answer of the witness when he was asked as to how many times he had been appointed receiver.

Mr. KING. He stated in no cases while the respondent was judge of the State court.

Mr. LINFORTH. Shall I proceed?

The PRESIDING OFFICER. Yes; proceed.

By Mr. LINFORTH:

Q. Did you ever meet the firm of Dinkelspiel & Dinkelspiel, or either one of them, prior to your appointment as receiver in the Sonora Phonograph case?—A. No, sir; I did not.

Q. Do you know John Douglas Short?—A. Yes, sir.

Q. How long have you known him?—A. Since about 1928 or 1929. I do not recall the exact time.

Q. In the time that you have been acquainted with him in how many matters has he acted—and when I say "he" I mean he or the firm with which he is associated, Keyes & Erskine—in how many matters has he acted for you as attorney for the receiver?—A. One time only.

Q. To what matter do you refer?—A. The Stempel-Cooley bankruptcy case.

Q. Was that the only matter of employment by you, as receiver, of him?—A. Yes, sir.

Q. Did you ever employ him in any other matter?—A. No, sir; I did not.

Q. The fee allowed you as receiver in the case to which you have referred was how much?—A. $500.

Q. Who allowed that, what judge?—A. Referee Sheridan, of San Francisco.

Q. Were you appointed receiver in the Sonora Phonograph case, so called?—A. Yes, sir.

Q. In that matter did Dinkelspiel & Dinkelspiel represent you as attorneys?—A. Yes, sir.

Q. How long did that receivership last?—A. Approximately 7 months.

Q. What time did you devote to your duties of receivership in that matter, about? I do not intend that you shall be exact, but I want you to make it as brief as possible.—A. From about 8:30 in the morning to 3:30 in the afternoon every day.

Q. In round numbers, how much did you collect as receiver in that matter?—A. The total assets, you mean?

Q. I mean the amount of money you collected as receiver in the Sonora Phonograph matter.—A. Approximately $300,000.

Q. Did you operate that concern as a going business down to the time when you closed it out as receiver?—A. Yes, sir; I did.

Q. What compensation was allowed you in that matter?—A. Sixty-eight hundred and some odd dollars.

Q. Was that amount determined by the statute?—A. Yes, sir; a statutory fee.

Q. What person fixed the fee, if you recall?—A. Well, it was heard before Judge Louderback. A petition for the statutory fees was heard before Judge Louderback.

Q. And the order was made by Judge Louderback?—A. Judge Louderback; yes, sir.

Q. In the Fageol Motor matter, were you the receiver appointed in that case?—A. Yes, sir.

Q. Upon being appointed, did you suspend your service with the Western Union Telegraph Co.?

Mr. Manager SUMNERS. Mr. President, we want the witness to tell what happened. We think this witness is being led beyond reason.

The PRESIDING OFFICER. I could not hear the question. I should like to have the last question read.

The Official Reporter read as follows:

Q. Upon being appointed, did you suspend your service with the Western Union Telegraph Co.?

The PRESIDING OFFICER. I think he may be permitted to answer this question, but I will ask counsel to desist asking leading questions following this question.

Mr. LINFORTH. May the question be again read?

The Official Reporter read as follows:

Q. Upon being appointed, did you suspend your service with the Western Union Telegraph Co.?

Mr. Manager SUMNERS. He did not make the point clear. The point is whether this witness suspended his connection, or whether this witness was suspended.

Mr. LINFORTH. I withdraw the question and put it in another form, and try to meet the objection, Mr. Manager.

By Mr. LINFORTH:

Q. Upon your appointment as receiver in the Fageol Motor Co. matter, what, if anything, did you do with reference to your position with the Western Union Telegraph Co.?—A. I requested a furlough, and it was granted.

Q. For how long?—A. For 6 months.

Q. What time—and make this as brief as possible—did you devote to the work of receivership in the Fageol Motor Co. matter?—A. My entire time ranged from 8 to 15 hours a day.

Q. And what did you do in the way of executive work, if anything?—A. I was the directing head of the entire company. I took care of the matters of insurance, matters of policy, conferred with the creditors on all major matters, took care of the bonding of employees, particularly followed up on the matter of cash receipts and disbursements. I signed all the disbursement checks for all branches on the Pacific coast; allowed no one to write any checks except myself from the 10 branches along the coast, and I did everything that was required of the head of a company to do.

Q. Did you do anything in the way of discharging any of the employees or officers?—A. I did; yes, sir.

Q. Who, upon investigation, did you discharge?—A. I released the president and took over his duties, one of the auditors, the superintendent of the shop, consolidating his job with the engineer's position. I eliminated quite a number of clerks and various employees in various shops in the plant, and I cut down the stenographic department. In fact I made curtailments according to the amount of the business we were handling.

Q. And what was the salary of the president and his son whom you removed?

Mr. Manager SUMNERS. We object to that. When this witness came into responsibility, the right of any employee of this concern to remain in a position of responsibility ter-

minated, and what happened prior to his cutting expenses we do not believe has any pertinency whatever with reference to the administration.

The PRESIDING OFFICER. The Chair understands the interrogatory to encompass that. May the Chair have the interrogatory read?

The Official Reporter read as follows:

Q. And what was the salary of the president and his son whom you removed?

Mr. LINFORTH. Mr. President, the purpose is to show executive management by the witness, who is alleged in the articles to be an incompetent employee, and to show a substantial saving to the Fageol Motors Co. by the action of the witness.

The PRESIDING OFFICER. The Chair wishes to make this remark before ruling. It does seem to the Chair that this inquisition is going far afield in many respects, and the Chair thinks probably the time of the Senate is being taken up a great deal with some details that are not necessary. However, some of it has been brought out by the presentation of the case on the other side. The Chair has that in mind, and, having that in mind, he is going to permit one or two questions along this line, but is going to sustain objection to them very shortly.

Mr. LINFORTH. May I be permitted to add, Mr. President, that in the examination of the witnesses this morning I have endeavored to be very brief; I have also endeavored to be very brief with this and all other witnesses.

The PRESIDING OFFICER. The Chair will suggest to counsel how the course being pursued might lead on indefinitely, and, of course, the Chair is not going to permit that.

Mr. LINFORTH. I will make the examination as brief as possible. I ask that the question may be again read.

The Official Reporter read as follows:

Q. And what was the salary of the president and his son whom you removed?

Mr. Manager SUMNERS. Not to stress the point unduly, we submit that the president of the company was removed by operation of law; he was not removed by this receiver.

The PRESIDING OFFICER. The Chair holds that the objection is well taken and sustains it.

Mr. LINFORTH. May I then put this question? Did you then, as receiver, reemploy the president or his son or somebody else?—A. I did not reemploy the president or his son, but I did employ other persons, including Mr. Lundstrom.

Q. And that resulted, did it or did it not, in a saving; and if so, how much, to the company?—A. It resulted——

Mr. Manager SUMNERS. Now, Mr. President, there is no objection whatever to this witness stating the salaries paid by him and, to be broad about it, we do not object to testimony as to the salaries paid under the old regime except to have in mind the difference between the concern operating unlimitedly and the concern operating under very great limitation under a receiver.

The PRESIDING OFFICER. Is not that a matter of argument rather than of admissibility? The Chair is going to overrule the objection.

Mr. Manager SUMNERS. He is stating it as a matter of argument.

Mr. LINFORTH. May the question again be read.

The PRESIDING OFFICER. The question will again be read.

The Official Reporter read as follows:

Q. And that resulted, did it or did it not, in a saving; and if so, how much, to the company?

The WITNESS. It did result in a saving of $800 per month.

By Mr. LINFORTH:

Q. In the matter of the compensation of yourself as receiver, what amount was applied for?—A. Six thousand dollars.

Q. And what amount was applied for by your counsel?—A. Ten thousand dollars.

Q. Were you present at the hearings had before Judge Wyman on the hearing on that application?—A. I was; yes, sir.

Q. Did all creditors at that time agree to that allowance?—A. There were one or two objections from small creditors, but the principal creditors had agreed to the amount.

Q. And upon that taking place, what amount did the court allow them?—A. It allowed me as receiver $4,500 and my attorneys $6,000.

Q. In any of these fees that you have received, did Judge Louderback participate to any extent whatever?

The PRESIDING OFFICER. Will the reporter read the question?

The Official Reporter read as follows:

Q. In any of these fees that you have received, did Judge Louderback participate to any extent whatever?

The PRESIDING OFFICER. Is counsel confining the question to one specific case or embracing all of them?

Mr. LINFORTH. All of them. We are trying to save time by asking one general question.

Mr. Manager SUMNERS. I think that we will obtain economy of time in that way. I do not think it would take very much time to point out how those fees were allowed.

Mr. LINFORTH. May the question be read and the witness answer it?

The PRESIDING OFFICER. The question will be read.

The Official Reporter read as follows:

Q. In any of these fees that you have received, did Judge Louderback participate to any extent whatever?

The WITNESS. No, sir.

By Mr. LINFORTH:

Q. Did anyone except yourself require any part or portion of those fees?—A. No, sir.

Q. Was there any division with anyone of any part or portion of those fees?—A. There was not.

Mr. LINFORTH. You may take the witness.

The PRESIDING OFFICER. Cross-examination of the witness will proceed.

Cross-examination by Mr. Manager SUMNERS:

Q. Mr. Gilbert, you have been a long time connected or were a long time connected with the Western Union Telegraph Co.?—A. Yes, sir.

Q. For thirty-odd years, I believe?—A. For nearly 35 years.

Q. Are you connected with that company now?—A. No, sir; I am not.

Q. What is your present employment?—A. I am not employed at present.

Q. Have you been employed since the winding up of your receivership matters?—A. No, sir; I have not.

Q. In the discharge of your duties with the telegraph company, were you engaged in the business of buying and selling for the company?—A. For the Western Union?

Q. Yes.—A. No, sir.

Q. Your business had to do with the physical operation of the plant and the transmission of communications, did it not?—A. Well, yes; it did principally. Of course, there were a great many detail matters of investigation, service complaints, and things of that sort, that I was called upon to detail.

Q. You mean that when somebody complained that a telegram had not been properly received it was your responsibility to ascertain the facts?—A. Yes, sir. If a complaint was filed against the company for any lack of service of any kind, and they wanted the details of the handling of it, or to form the basis of a lawsuit, or anything of that kind, if the telegram concerned me as to the handling of it between 4 o'clock and midnight, I was the one called upon to detail the traffic handling and to place the responsibility, and things of that sort.

Q. What other business did you have? What were your other duties in connection with this telegraph company?—A. General supervision over seven departments.

Q. I know, but that does not mean anything to us. What did you do about it?—A. Well, I had to see that the costs were kept down with the amount of business filed.

Q. The costs of what?—A. The costs of operation, the cost of handling telegrams.

Q. Did that have to do with the salaries of employees?—A. Yes.

Q. Did you have to do with the employment of the other employees who worked under you?—A. I was on the advisory board of the traffic manager's office.

Q. Will you answer my question?

Mr. LINFORTH. Just a minute. We protest, Mr. President, against interruption of the witness when he is endeavoring to answer the question.

Mr. Manager SUMNERS. Yes; but we submit he is endeavoring—I do not mean he is deliberately doing so—but he is endeavoring to answer the question not responsively. I asked him the very direct question as to whether——

The PRESIDING OFFICER. The Chair thinks the comment is well taken and will ask the witness to answer directly.

By Mr. Manager SUMNERS:

Q. Did you have to do with the——

Mr. McKELLAR. Mr. President, if I may be permitted, I should like to submit a question.

The PRESIDING OFFICER. The Senator from Tennessee propounds a question, which will be read by the clerk.

The legislative clerk read as follows:

Q. What salary did you get from the telegraph company for the past 5 years?

The WITNESS. Three thousand and sixty dollars a year.

By Mr. Manager SUMNERS:

Q. Will you answer my question?

The PRESIDING OFFICER. Let the Official Reporter read the question to the witness.

The Official Reporter read as follows:

Q. Did you have to do with the employment of the other employees who worked under you?

Mr. Manager SUMNERS. That is the question to which I want an answer.

The WITNESS. I did not employ anyone; no, sir.

Q. Did you have the responsibility of discharging employees?—A. Not exactly of discharging them, but of referring them to my superior officer in case they were not satisfactory.

Q. You made complaint to your superior officers with reference to inefficiency of service?—A. Yes, sir.

Q. Did you have any business on the side, any additional business, or other business, than that of an employee of the telegraph company?—A. Well, I did some speculating in real estate, but that is the only thing.

Q. To what extent did you have experience in the real-estate market?—A. Well, I had been personally acquainted with some real-estate people who were speculators in real estate, and I became interested in that way. I bought and sold some real estate.

Q. How much in your 30 years—how many tracts?—A. Well, it is pretty hard to answer that question. I would say not over $10,000 worth, probably.

Q. Ten thousand dollars' worth in about 30 years. When you did that did you act upon your own responsibility as to real-estate values or take the judgment of the real-estate agencies through which you acted?—A. Both.

Q. In what other business did you engage?—A. Other than the receiverships that I have been connected with, I have no other business.

Q. I believe you stated that you were acquainted with Mr. Leake, Sam Leake?—A. Yes, sir.

Q. How long have you known him?—A. Fifteen or twenty years. I could not say just how long.

Q. I believe he designates himself as a mental healer or some such designation as that. Can you give us a more specific or correct designation of how Mr. Leake designates himself?—A. I think he refers to himself as a metaphysical student. Mr. Leake is a Christian Science practitioner.

Q. Is he recognized by the Christian Science organization as one of their practitioners?—A. I do not know.

Q. Do you not know he is not?—A. No; I do not know that he is not.

Q. Are you a patient or client, or whatever it is called, of his?—A. I have been to some extent.

Q. Members of your family?—A. Mrs. Gilbert has.

Q. Through how long a period of time?—A. Ever since I have known him, probably 15 years or so.

Q. Have you made any donations or payments to Mr. Leake for services?—A. Yes; I have occasionally.

Q. How much?—A. I have given Mr. Leake $5 at a time, occasionally.

Q. You gave him a check for $150 at one time, did you not?—A. I gave him a check of $150 at one time several years ago.

Q. I believe you say that the first employment under designation of the respondent was in the Stempel-Cooley case?—A. Yes, sir.

Q. In that case you received a $500 fee?—A. Yes, sir.

Q. Mr. Short was your attorney, Mr. John Douglas Short?—A. Yes, sir.

Q. Did you consult Mr. Leake prior to the engagement of Mr. John Douglas Short as to his selection?—A. I did in this way, that I told Mr. Leake I had been appointed receiver and asked him if he could recommend anyone for an attorney for me. He stated that he had no particular choice in the matter, but he thought John Douglas Short would make a good attorney for me. I telephoned him there and went to his office and engaged him.

Q. Did you tell Mr. Short over the telephone that you contemplated engaging him and then went over to fix up the details with him?—A. I do not recall that. I asked if I could see him, if I remember correctly, and I went over to his office a very few minutes after that.

Q. Were you not pretty well acquainted with lawyers in San Francisco, or at least a number of them?—A. No; I would not say that I was. I have had no dealings with lawyers prior to that time.

Q. You did not have an independent attitude as to whom you should select?—A. Not in particular; no.

Q. Prior to this time you had served under appointment of Judge Louderback when he was a judge of the State court. You were acquainted with him?—A. Yes, sir.

Q. Do you remember the style of that case?—A. Do I remember what?

Q. Do you remember the style of that case?—A. It was a probate matter.

Q. Was it in the Brickell case?—A. Yes, sir.

Q. You served as an expert to appraise property, did you not?—A. I served as an appraiser.

Q. Do you know how much was involved in that estate?—A. I do not recall the amount.

Q. What did it consist of chiefly, just briefly?—A. The Brickell estate consisted principally of stocks in the Brickell Co., and the Brickell Co. holdings were principally real estate.

Q. You examined the stock and the real estate, did you?—A. No; I did not.

Q. You never saw a bit of the property, did you?—A. No; I did not.

Q. When the committee was in San Francisco you did not even remember the name of the estate or what it consisted of, did you?—A. No; I did not. I could not recall.

Q. You got a fee of $500?—A. Yes, sir.

Q. What did you do to earn that fee?—A. I was called to the office of the State inheritance-tax man, and I signed an appraiser's oath. He stated to me that he would call me after he had had time to look into the matter and see what further work we could do in it.

Q. Mr. Gilbert, are not these the facts, and did you not so testify in San Francisco—that you did not know what the estate was, you did not know what it consisted of, but the only thing you had to do was to sign your name?

Mr. LINFORTH. Just a moment. I submit, Mr. President, the witness was answering the question as to what

he did when counsel interrupted him. I think he should be permitted, in all fairness, to finish the answer. If it does not agree with what he said in San Francisco, counsel should confront him with the record.

The PRESIDING OFFICER. Had you concluded your answer?

The WITNESS. No, sir.

Mr. Manager SUMNERS. Let him say anything else he wants to.

The PRESIDING OFFICER. Let the question and answer be read.

The Official Reporter read as follows:

Q. What did you do to earn that fee?—A. I was called to the office of the State inheritance-tax man, and I signed an appraiser's oath. He stated to me that he would call me after he had had time to look into the matter and see what further work we could do in it.

The PRESIDING OFFICER. Is that the conclusion of your answer?

The WITNESS. No, sir; it is not.

The PRESIDING OFFICER. Proceed.

The WITNESS. I did not hear anything further from the State inheritance-tax collector until 4 or 5 months later. He called me to his office and said, "I have the inventories all prepared. I have gone into every detail of it." He said, "There is no occasion for duplication of work." So I signed the papers with him on his assurance to me that he had gone into all details in the matter.

By Mr. Manager SUMNERS:

Q. I will ask you if this did not occur in San Francisco on the occasion of the presence of the special committee designated by the House of Representatives to investigate this matter. Were you not asked these questions, after having testified with reference to your selection in the Sonora case:

A. Well, I was appointed as an appraiser in an estate prior to that time.

Q. By whom?—A. By Judge Louderback.

Q. What was the nature of the appraisal?—A. There were three appraisers appointed in an estate, and I was one of them.

Q. What was the property that you had to appraise?—A. Well, I did very little work in that case. There was—I forget the man's name now that did look up the property—I did very little work in that case.

Q. What kind of property was it?—A. Well, I cannot recall.

Q. Was it land, real estate, or personal?—A. It was real estate; it was real estate. It was some estate, and I think it considered principally of real estate. The work was more accurately done by this gentleman, I cannot recall his name. I did practically nothing in that case.

Q. Do you remember the name of the case?—A. No; I cannot recall it.

Q. Do you remember about the time that you were designated as an appraiser by Judge Louderback?

Then you went on to state the period when it was. You stated you did not know where the property was located and that you did not go on the property. Is not that true?

Mr. LINFORTH. We object to that question as not in any sense contradictory of anything the witness is now stating.

The PRESIDING OFFICER. The Chair thinks the objection is well taken.

Mr. McKELLAR. Mr. President, I think we should take an appeal from the ruling of the Chair on that question. If the witness has given contradictory testimony it ought to be brought out here, and therefore I ask for a vote by the Senate sitting as a court.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate sitting as a court?

Mr. LINFORTH. Mr. President, may I add——

The PRESIDING OFFICER. This is not a question to be discussed.

Mr. AUSTIN. Mr. President, I suggest the absence of a quorum.

Mr. LINFORTH. Mr. President, to save time we withdraw the objection.

The PRESIDING OFFICER. The objection is withdrawn. Counsel may proceed.

By Mr. Manager SUMNERS:

Q. Do you recall the question?—A. Yes; I do.

Q. Was that the testimony you gave?—A. That was my testimony at San Francisco.

Mr. McKELLAR. Mr. President, the objection was withdrawn, but at the same time the Senator from Vermont [Mr. AUSTIN] did not withdraw his point of no quorum. I ask unanimous consent that the request for the call of a quorum be withdrawn.

Mr. AUSTIN. Mr. President, without any coercion whatever, I withdraw the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. Manager SUMNERS:

Q. Mr. Gilbert, is it not a fact that the only thing you did in this matter was to sign your name to a report which had been prepared, is not that a literal fact?—A. The oath and the inventory were prepared and I signed them.

Q. That is all you did, too, is it not?—A. That is all I did.

Q. Who served with you on that board?—A. Mr. Mogan is the only man that I had any dealings with on it. He was the State tax man.

Q. Do you know who the third man was on that board?—A. I have since heard.

The PRESIDING OFFICER. Do you know?

The WITNESS. Yes; I know.

By Mr. Manager SUMNERS:

Q. Who was it?—A. Mr. Leake.

Q. Mr. Sam Leake?—A. Yes, sir.

Q. How much did you get for your services in that connection?—A. $500.

Q. Do you know that the allowance under the laws of the State of California is $5 a day for these services?—A. I have since heard so; yes, sir.

Q. You got paid for 100 days' work by Judge Louderback for signing your name on one day?

Mr. LINFORTH. We object to that question as being argumentative. The facts are already in evidence.

The PRESIDING OFFICER. It is argumentative. Objection is well taken.

Q. I believe you have already testified to your designation in the Stempel-Cooley case?—A. Yes, sir.

Q. Mr. Short was your attorney there?—A. Yes, sir.

Q. Were the services of Mr. Short satisfactory?—A. Yes, sir.

Q. Which was the next appointment by Judge Louderback?—A. By Judge Louderback? It was the Sonora Phonograph case.

Q. That was a going concern? They were engaged in the purchase, sale, and distribution of phonographs and receivers?—A. Yes, sir.

Q. What experience prior to this time had you had in that kind of business?—A. None.

Q. How did you come to be designated, if you know, as receiver in that case?—A. I do not know.

Q. How did it come about?—A. I was appointed, and notified by the judge's secretary. I reported to his office, his chambers, the following morning, qualified, petitioned for counsel, and took active charge of the affairs of the company.

Q. Who prepared the petition for counsel in that case?—A. Mr. Dinkelspiel.

Q. Did you request that Mr. Dinkelspiel be designated as your attorney or did he request it?—A. I met Mr. Dinkelspiel——

Q. Wait a minute. I should like to have that question answered, if you can answer it.

Mr. LINFORTH. Just a moment. I do not believe that the honorable manager should shout and try to intimidate the witness in that way.

The PRESIDING OFFICER. The Chair does not see anything intimidating about it, but he thinks the question at this stage of the proceeding is rather disjointed or double-jointed. The Chair thinks the question should be read to the witness.

Mr. Manager SUMNERS. I should like the witness thoroughly to understand the question. May I ask the question in such a way that if there is any confusion I can remove the confusion?

The PRESIDING OFFICER. There is a question pending. Does the manager on the part of the House desire the court to rule on it, or does he desire to withdraw it?

Mr. Manager SUMNERS. I withdraw that question and will propound another question. I thought the objection was to my talking too loud. I withdraw the height of my speaking.

By Mr. Manager SUMNERS:

Q. I want to know, as a matter of fact, whether the notion that you should employ Mr. Dinkelspiel originated with you or, as far as you know, originated with him?—A. It originated with Mr. Dinkelspiel, inasmuch as he was already in the case.

Q. How was he in the case?—A. He had been retained and filed a petition for the Irving Trust Co., of New York, the main receiver. Mr. Dinkelspiel stated that he had charge of the case when I first met him at the judge's chambers.

Q. He stated to you that the Irving Trust Co. had asked him to file this petition for ancillary receivership?—A. Yes, sir.

Q. And because of that fact and that statement you consented to his employment?—A. I did, after conferring with Judge Louderback on the matter.

Q. After conferring with Judge Louderback? First you had the conversation which you have detailed with regard to Mr. Dinkelspiel and then you had a conference with Judge Louderback?—A. I did; yes, sir.

Q. And after the conference with Judge Louderback you consented to the application to have Dinkelspiel & Dinkelspiel designated as your attorneys in that case?—A. Yes, sir.

Q. Your preference had been for Douglas Short, had it not? He had represented you?—A. Well, I had in mind Mr. Short, but I had made no move in regard to having him appointed or filing a petition for it.

Q. Had you discussed your own selection with Mr. Leake?—A. No, sir.

Q. You did not go to him to make inquiry as to whom you should appoint?—A. No, sir; I did not.

Q. In the meantime, had you got acquainted with Dinkelspiel & Dinkelspiel?—A. No, sir. The first time I ever met Mr. Dinkelspiel was in the judge's chambers on the morning that I qualified in the Sonora case.

Q. Did you know him by reputation or personally?—A. Well, I had heard of the firm, but I had never seen either one of the gentlemen. I did not know them.

Q. Which one of the gentlemen was it that had the conversation with you in the judge's office?—A. Mr. John W. Dinkelspiel.

Q. I think you testified as to the transactions that took place in the administration of the estate of the Sonora Phonograph Co.—A. I did, as near as I could recall at the time.

Q. What was your next case?—A. The next case for Judge Louderback was the Prudential Holding Co. case.

Q. What was your fee in that case?—A. I did not receive any fee in the Prudential Holding Co. case at all.

Q. I believe that is the case where they were engaged in real-estate transactions. They had some apartment houses that they were operating?—A. Yes; they had four apartment houses.

Q. That is the case in which you said you did not come out very well, is it not? That is the case?—A. Yes; that is the case I did not come out very well on.

Q. You did not get any fee there. You were appointed receiver in equity in that case, and then an application to put the concern in bankruptcy was filed. Is that true?—A. Yes, sir.

Q. And that application to put the concern in bankruptcy fell in Judge St. Sure's court?—A. Yes, sir.

Q. And during his absence the respondent sat in that division?—A. Well, I was not present at the hearing. I have heard so, but I do not know positively that that was the fact. I was not present.

Q. Then the petition in bankruptcy was granted and you were appointed receiver in that situation, were you not?—A. Yes, sir.

Q. But you did not get anything in either one?—A. I did not get anything; no, sir.

Q. The receivership in equity was dismissed. Who dismissed the bankruptcy matter?—A. I think Judge Louderback dismissed the bankruptcy matter. I think he did.

Q. Judge St. Sure did dismiss it.—A. Probably it was Judge St. Sure. I may have been mistaken.

Q. Which was the next case in which you were engaged?—A. The Fageol Motors Co.

Q. You have already testified in the main with reference to the Fageol Motors Co. case?—A. Yes. I testified in San Francisco on that.

Q. The Fageol Motors Co. was engaged rather extensively on the Pacific coast, was it not?—A. Yes, sir.

Q. It was engaged in the business of assembling automobiles, buying parts and assembling them, and also engaged in the business of manufacturing, to some degree at least, bodies for automobiles, was it not?—A. They assembled trucks, automotive trucks. They did not handle automobiles.

Q. Trucks?—A. And coaches—trucks and coaches.

Q. Do you mean by "coaches" those big automobile things that run up and down the road and carry passengers?—A. Yes, sir; look like street cars.

Q. What experience had you had in the automobile business prior to that time?—A. I had not had any experience in that particular line.

Q. I believe you have pretty well covered the character of service rendered. How were you able, without any experience in connection with the automobile business, to go in there and take charge and give intelligent direction to the affairs of that rather big concern?—A. Well, I knew organization for a big company through my experience with the Western Union. They had a rather large administrative force; and I conferred with the heads of each department, consolidated some, made a great many curtailments in every office on the Pacific coast, including the factory, closed out several offices when I found out they were not paying——

Q. If it would not interrupt you, how did you find that out?

Mr. LINFORTH. Just a moment, Mr. President. The witness was asked a question as to how he knew certain things and how he could do certain things. I submit he should be permitted to complete his answer.

Mr. Manager SUMNERS. All right. That is perfectly all right. Go ahead.

The PRESIDING OFFICER. Proceed with the answer.

The WITNESS. Well, I organized the Fageol Motors Co. or operated the business under my experience in the telegraph company as to organization and efficiency. As far as the shop, the mechanics, and men of that sort were concerned, each department was under an expert, with whom I conferred every day; but my principal duty was to get the thing down on a paying basis and rehabilitate the company if it was possible to do that.

I found a great many wastes there which I eliminated. For instance, the telephone bill was running around $700 a month when I went in there. I ordered about 17 telephones taken out that were absolutely unnecessary, and cut the bill down to about $285 a month. I stopped all long-distance telephone calls from the various departments unless they had an O.K. from my office. I sent letters out to every person owing the company, hired a collector, and followed up on all collections.

I collected a great deal of money that was outstanding. One thing I found on the books was some items, aggregating $6,000, that had been written off the books entirely. I had them put back on the books, and sent a man out to collect them, and he was successful in collecting $2,000 of that amount; and we had good prospects, or believed we did, of collecting the balance.

I also found that the company had overpaid their income tax something like $12,000. I made arrangements to have that refunded. Those negotiations were under way at the time my receivership was terminated.

There was any amount of detail in that way that I did. I do not suppose you want me to recite that, for reasons of time.

By Mr. Manager SUMNERS:

Q. What I am trying to find out is, how your experience in the organization of a group of telegraph operators helped you in determining the operation of a great, big business concern, distributed over the western coast, assembling and manufacturing automobiles.—A. In my experience with the telegraph company, my executive experience with them, my training, I learned the matter of costs and operations, and the same principles apply in a telegraph company that apply anywhere else in that regard.

Q. In other words—I do not mean to argue it with you—but your notion is that any person who could be an efficient man as a supervisor of telegraph operators could take charge of a big business and run it right off the reel?

Mr. LINFORTH. One minute. We submit that that is objectionable as calling for his notion.

Mr. Manager SUMNERS. I withdraw it.

The PRESIDING OFFICER. The question is withdrawn.

By Mr. Manager SUMNERS:

Q. When were you paid for your services in this connection?—A. I think it was August of 1932. The receivership terminated on July 20. About a month later the fees were allowed.

Q. You had two savings accounts, did you not?—A. Yes, sir.

Q. And then you had a safety-deposit box?—A. Yes, sir.

Q. How did you distribute this fee?—A. The Fageol fee?

Q. Yes.—A. When I was paid I put the entire amount in my safe-deposit box, and left it there for some time. I have since deposited half of it in savings accounts and I have used considerable of it for living expenses.

Q. Was that drawn out of your safe-deposit box or out of your savings account?—A. Safe-deposit box.

Q. With regard to your separation from the Western Union Telegraph Co., I believe you stated that during all your receiverships, except the last, you continued in your employment with the Western Union Telegraph Co.?—A. Yes, sir.

Q. When you were selected in the last case, did not difficulty arise between you and one of the superintendents of the telegraph company?—A. No; there was no difficulty. I requested a furlough, and I was granted the customary 6 months' furlough from the company.

Q. But did you not tell the respondent here that trouble had developed between you and one of the superintendents, and that you were up against a situation, in effect, of having to separate either from the receivership or separate from the Western Union Telegraph Co.?

Mr. LINFORTH. We object to that question as not being cross-examination and not germane to any issue here involved.

The PRESIDING OFFICER. The objection is overruled.

By Mr. Manager SUMNERS:

Q. Is not that true?—A. I had no difficulty with the superintendent——

Q. I did not ask you that.

Mr. LINFORTH. May the question be read?

The PRESIDING OFFICER. Let the question be read.

The Official Reporter read as follows:

Q. But did you not tell the respondent here that trouble had developed between you and one of the superintendents, and that you were up against a situation, in effect, of having to separate either from the receivership or separate from the Western Union Telegraph Co.?

By Mr. Manager SUMNERS:

Q. Let me add this much before you answer. And did not the judge tell you to remain with the telegraph company?

The PRESIDING OFFICER. Answer "yes" or "no", and then explain if you wish to.

The WITNESS. Yes, sir. I mentioned to Judge Louderback in a conversation one day that my furlough was about to expire, and that I had made application to have an extension, but it had not been granted. The judge advised me to continue with the telegraph company. That was his advice to me. That is practically all the conversation I had with the judge on the matter.

By Mr. Manager SUMNERS:

Q. That is the question I asked you.—A. Yes, sir.

Q. You have already stated that you got approximately $6,800 in the Sonora Phonograph Co. case?—A. Yes, sir.

Q. For how long a period of time was that?—A. About 7 months, I think.

Q. How much did you get in the final wind-up of the business?—A. The last payment?

Q. That is right.—A. Twenty-eight hundred and some odd dollars.

Q. Will you indicate briefly what you did with that fund? In order to refresh your memory and to save you time, I will ask you if you did not deposit $1,200 in one savings account?—A. Yes, sir.

Q. And if you did not deposit $2,000 in another bank?—A. Yes, sir.

Q. And then you paid off a note of $500?—A. Yes, sir.

Q. And the rest of it you deposited in your vault?—A. I paid out about a thousand dollars, including a note of $510. At the time I stated that, I could not recall exactly all my disbursements, but I paid out around a thousand dollars, and the balance I put in a safe-deposit box.

Q. I believe you stated that a good deal of that you have used up for living expenses?—A. Yes, sir.

Mr. BLACK. Mr. President, may I propound an inquiry? I did not clearly get the answer about the safe-deposit box.

The PRESIDING OFFICER. The Senator from Alabama submits a question, which the clerk will read.

The Chief Clerk read as follows:

Q. What was the amount of your compensation you put in the safety-deposit box, and when did you do that?

Q. In what case?

Mr. BLACK. Mr. President, I will add to the question, in the first case that was testified about, where he said he took half out at a later date and deposited it in the bank.

The WITNESS. That was the Fageol case. I put in half of my Fageol fees in the safe-deposit box and deposited the other half in the bank.

Mr. BLACK. Mr. President, may the question be read again?

The PRESIDING OFFICER. The clerk will read.

The Chief Clerk read as follows:

Q. What was the amount of your compensation in the first case you put in the safety-deposit box, and when did you do that?

The PRESIDING OFFICER. That is the Fageol case to which the Senator refers.

The WITNESS. The amount was $4,500, and I put it all in the safety-deposit box at the time I received it, the latter part of August 1932.

The PRESIDING OFFICER. The clerk will read the other question propounded by the Senator from Alabama.

The Chief Clerk read as follows:

Q. When did you deposit half of the compensation in the bank?

The WITNESS. Within the last 2 months, when they got to questioning hoarders for keeping their money in safety-deposit boxes.

The PRESIDING OFFICER. The clerk will read the next question of the Senator from Alabama?

The Chief Clerk read as follows:

Q. What bank did you put the money in, and in what bank did you have a safety-deposit box?

The WITNESS. I put the money in three different accounts—in the Bank of California, in the San Francisco Bank, and the American Trust Co. My safe-deposit box is in the American Trust Co.

The PRESIDING OFFICER. The managers may proceed with the examination.

By Mr. Manager SUMNERS:

Q. May I ask on what date you put this money in the safe-deposit box?—A. The Fageol matter money I put in the day I got paid. I do not know what day that was. I can not remember that—the latter part of August, as I recall it.

Q. In order to save time, have you your deposit slips, or the things which indicate at what time deposits were made by you of these amounts which you received in the receivership matters?—A. No, sir; I haven't them with me.

Mr. Manager SUMNERS. Mr. President, we may want to recall this witness a little later, but this is all we desire to ask the witness at this time.

Mr. LINFORTH. Just a question or two in redirect.

Redirect examination by Mr. LINFORTH:

Q. Mr. Gilbert, when you paid Mr. Leake the $150 referred to in the questions by opposing counsel, was that for services rendered to your wife?—A. It was; my wife and myself.

Q. How many years before you were ever appointed receiver in any of these matters did that take place?—A. I would say 4 or 5 or 6 years prior.

Q. With reference to your bank accounts, to which you have referred, were they submitted to Mr. LAGUARDIA when he was in California on the investigation had in September of last year?—A. I did not submit my books to him, but I stated the facts to him on his interrogations.

Q. Did he ask for your books at that time?—A. He did not ask for my books; no, sir.

Mr. LINFORTH. That is all we desire to ask.

Mr. Manager SUMNERS. That is all at the present time.

The PRESIDING OFFICER. You may recall the witness again?

Mr. Manager SUMNERS. Yes; we may recall him again.

Mr. BLACK. I desire to propound other questions.

The PRESIDING OFFICER. The clerk will read the questions.

The Chief Clerk read as follows:

Q. When did you get your compensation in the Sonora case, and how much was it?

The WITNESS. I received my Sonora fees in three different installments. The last one was in July or August of 1930. The total amount aggregated six thousand eight hundred and some-odd dollars.

Q. What did you do with it, and when?

The WITNESS. I deposited $3,200 in savings accounts, paid off a note and some bills that I owed to the extent of about a thousand or eleven hundred dollars, and put the remainder in a safe-deposit box.

Mr. BLACK. I submit another question.

The PRESIDING OFFICER. The clerk will read.

The Chief Clerk read as follows:

Q. How much did you put in the box, and when?

The WITNESS. I put in the box all except what I deposited in the bank, and about eleven or twelve hundred dollars that I paid out on bills. The remainder I put in the box.

Mr. BLACK. May the question be read to him again?

The Chief Clerk read as follows:

Q. How much did you put in the box, and when?

The WITNESS. About $2,400 I put in the box immediately after I received it.

Q. When did you pay out the money you mentioned?

The WITNESS. Within a very few days after receiving it.

The PRESIDING OFFICER. Are there any further questions?

Mr. MCKELLAR. I submit a question.

The PRESIDING OFFICER. The clerk will read the question submitted by the Senator from Tennessee.

The Chief Clerk read as follows:

Q. When was the first time you ever rented a safety-deposit box?

The WITNESS. About 20 years ago.

Q. Have you a box now?

The WITNESS. Yes, sir.

Q. Have you any money in the box now?

The WITNESS. Yes, sir.

Mr. Manager SUMNERS. No further questions.

Mr. TYDINGS. I should like to ask the witness a question.

Mr. Manager SUMNERS. It is understood that when I say we have no further questions, we mean at this time.

The PRESIDING OFFICER. The Chair understands that. The clerk will read the question submitted by the Senator from Maryland.

The Chief Clerk read as follows:

Q. Why did you put part of the money in the safe-deposit box?

The WITNESS. It has always been my custom to keep some money in a safe deposit box.

Q. Why in three banks?

The WITNESS. Well, I did not want to put all my eggs in one basket.

The PRESIDING OFFICER. Are there any further questions? If not, the witness may stand aside.

(The witness retired from the stand.)

Mr. LINFORTH. Mr. President, at this time we offer in evidence a letter from Judge A. F. St. Sure which, by stipulation of the parties, may stand as his testimony in the matter.

The PRESIDING OFFICER. That stipulation has been entered?

Mr. Manager SUMNERS. Mr. President, I am advised by my associates that that stipulation has been entered.

The PRESIDING OFFICER. The letter may be filed.

Mr. LINFORTH. Mr. President, the letter is upon one of the letterheads of the United States District Court for the Northern District of California, it is dated April 25, 1933, and reads:

U.S.S. EXHIBIT F

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
CHAMBERS OF A. F. ST. SURE,
San Francisco, Calif., April 25, 1933.

Hon. HAROLD LOUDERBACK,
United States District Judge,
San Francisco, Calif.

THE UNITED STATES OF AMERICA *v.* HAROLD LOUDERBACK, UPON ARTICLES OF IMPEACHMENT PRESENTED BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA

MY DEAR JUDGE LOUDERBACK: You have asked for my interpretation of the last paragraph of our court rule no. 53, which reads as follows: "Receivers shall employ counsel only after obtaining an order of the court therefor."

When this rule was adopted in 1928, we had before us report pamphlet no. 1 of the Association of the Bar of the City of New York, which contained recommendations upon the appointment of equity receivers and the employment of counsel by the receivers. One recommendation in particular read as follows: "That counsel for the receiver should be designated only after order of court and upon appropriate affidavit by the receiver."

After a full discussion the judges of this court were of the opinion that the rule would prove a useful one, and it has so proved. It gives the court discretion in the matter of the appointment of attorneys for the receiver, to the end that no attorney shall be appointed who for good and sufficient reasons is deemed disqualified—who has appeared for or acts for a party or for any creditor of the defendant (whether intervenor or not), or for any other person interested in the cause or the estate; and in case where the court appoints as ancillary receiver a person who is the primary receiver in another jurisdiction, it gives the court the power to appoint, as representing the court, a local attorney of good standing at the bar.

I have read the above to our associate, Judge Kerrigan, and he gives me permission to say that he agrees with my interpretation.

In the matter of one judge sitting in the absence of another. Our rules provide "that court shall be held at Sacramento in each month except for the months of July and August", and that "court shall be held in Eureka in July, * * *. The Sacramento and Eureka terms of court shall be held by the several judges, turn and turn alike, and in regular rotation; subject to such temporary variations as are agreed upon by a majority of the judges." When I have been sitting in Sacramento or Eureka, you have courteously presided in my department in San Francisco, called my calendar, heard and ruled upon ex parte and other motions, and when you have been absent from San Francisco, I have performed a like service for you.

In the matter of the Prudential Holding Co. of Los Angeles, a Nevada corporation, alleged bankrupt. You have called my attention to testimony given by Attorney H. H. McPike, who was a witness at the hearing before the special committee of the House of Representatives, Seventy-second Congress, pursuant to House Resolution 239, held in San Francisco from September 6 to September 12, 1932. It appears that there had been made before me a motion to dismiss a bankruptcy proceeding, which was

granted, and that thereafter a motion to set aside the order of dismissal was made. Mr. McPike testified that in denying the latter motion, I said "I found there was a bad smell about the case." I have no recollection of having made the remark quoted, but as Mr. McPike has so testified under oath, it is probable that I did. You inform me it has been suggested that the remark quoted was a personal allusion to you. I am certain I did not have you in mind when the alleged remark was made.

Yours truly,

A. F. ST. SURE,
United States District Judge.

AFS/BA.

Mr. Manager SUMNERS. May I see that paper, Judge?

Mr. LINFORTH. Certainly.

The PRESIDING OFFICER. Under stipulation the Chair understands that the letter is to be filed and become of record.

Mr. Manager SUMNERS. I will hand it up in just a moment. I have the privilege of making an examination of it.

Mr. LINFORTH. May I inquire, does the Presiding Officer desire me to file this stipulation with the letter?

The PRESIDING OFFICER. No; it is understood that it is stipulated that it may be received.

Mr. Manager SUMNERS. To make it clear, the concession is that this letter may go in as though it were a deposition or the testimony of Judge St. Sure.

Mr. LINFORTH. That is my understanding, Mr. President.

The PRESIDING OFFICER. That is the record.

RECESS

Mr. ASHURST. Mr. President, I did not understand the honorable attorney. Did he ask me a question?

Mr. LINFORTH. I had a thought in mind that we had reached a point where we might take a recess.

Mr. ASHURST. Have you no other witness?

Mr. LINFORTH. I am quite fatigued and weary. I worked very late last night, and I am under the impression——

Mr. Manager PERKINS. There is a witness waiting in the lobby to be called, and we could consume 25 or 30 minutes more.

The PRESIDING OFFICER. It is the desire of the Presiding Officer at this time that the proceeding go on and that time be saved just as much as possible.

Mr. ASHURST. I suggest that we proceed until 1:30 o'clock, at least.

Mr. LINFORTH. May I add this statement, Mr. President? I have been under a good deal of stress in this matter. My working hours have been about 20 each day from the time of my arrival in Washington. I have reached that point in age where I feel fatigued a little more early than I did many years ago. I feel, Mr. President, that when I reach that point I cannot discharge to the full extent of my ability my duty to my client. I should like, if it may be done, that at this time we take a recess until next Monday. I am quite confident, cutting matters as I have cut them out this morning, that we may be able, and I hope we shall be able, to conclude the evidence by next Monday; and I am perfectly willing for the honorable court to make such order as it may deem necessary to lengthen the hours on Monday, if necessary, to that effect.

The PRESIDING OFFICER. Senators have heard the statement of counsel. What is the suggestion of the Senate?

Mr. ASHURST. It was not anticipated that the court would take a recess until 1:30 o'clock today, but in view of the statement of the honorable attorney, I feel that I ought to make such motion as he suggests.

I am about to say something that doubtless I should not say, but I am going to say it at the risk of impropriety. The honorable attorneys are weary, but there are others who are weary from hearing questions that have no relation to the subject repeated over and over and over again. Other men grow weary as well as the honorable attorneys. I therefore move that the Senate, sitting as a Court of Impeachment, take a recess until 12 o'clock noon on Monday.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arizona.

Mr. LINFORTH. Mr. President, I want to add my thanks to our friends.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arizona.

The motion was agreed to; and (at 1 o'clock and 10 minutes p.m.) the Senate sitting as a Court of Impeachment, took a recess until Monday, May 22, 1933, at 12 o'clock meridian.

LEGISLATIVE SESSION

The Senate, pursuant to the order for the recess entered yesterday, resumed legislative session.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

REPORT OF THE FEDERAL RESERVE BOARD

The VICE PRESIDENT laid before the Senate a letter from the Governor of the Federal Reserve Board, transmitting a copy of the annual report of the Board covering operations during the year 1932, which, with the accompanying report, was referred to the Committee on Banking and Currency.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Maryland, which was referred to the Committee on Post Offices and Post Roads:

Joint Resolution 4

A joint resolution memorializing Congress of the United States to enact House Joint Resolution 191, commemorating the one hundred and fiftieth anniversary of the naturalization as an American citizen in 1783 of Brig. Gen. Thaddeus Kosciusko, a hero of the Revolutionary War, by issuing special series of postage stamps in honor of Brig. Gen. Thaddeus Kosciusko

Whereas on October 13, 1933, will occur the one hundred and fiftieth anniversary of the naturalization as an American citizen of Brig. Gen. Thaddeus Kosciusko, a hero of the Revolutionary War; and

Whereas the service rendered by him was of great value and assistance to the cause of American independence and of such high importance that on October 13, 1783, he was appointed brevet brigadier general of the Continental Army and was granted naturalization as an American citizen; and

Whereas it is but fitting that proper recognition should be given to the memory of Brig. Thaddeus Kosciusko, whose illustrious service in the war for American independence is well known to all who are familiar with our history: Therefore be it

Resolved by the General Assembly of Maryland, That the United States Congress be, and it is hereby, requested to enact legislation which will provide for the effective carrying out of the provisions of the said resolution, whereby the Postmaster General would be authorized and directed to issue a special series of postage stamps of the denomination of 3 cents, of such design and for such period as he may determine, commemorative of the one hundred and fiftieth anniversary of the naturalization as an American citizen and appointment of Thaddeus Kosciusko as brevet brigadier general of the Continental Army on October 13, 1783; and be it further

Resolved, That the secretary of state be, and he is hereby, requested to send a copy of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States from Maryland.

Approved April 21, 1933.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT.

I, David C. Winebrenner, 3d, secretary of state of the State of Maryland, do hereby certify that the foregoing is a true and correct copy of joint resolution no. 4 of the acts of the General Assembly of Maryland of 1933.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Annapolis, Md., this 19th day of May 1933.

[SEAL] DAVID C. WINEBRENNER, 3D,
Secretary of State.

The VICE PRESIDENT also laid before the Senate resolutions adopted by the Commissioners Court of Fort Bend County, Tex., endorsing the program of President Roosevelt, and favoring the inauguration of a public-works program providing highway construction in the State of Texas, which were referred to the Committee on Finance.

He also laid before the Senate resolutions adopted by the Perry Community Club, of Perry, La., endorsing Hon. HUEY P. LONG, a Senator from the State of Louisiana, condemning attacks made upon him and protesting against a senatorial

investigation of his alleged acts and conduct, which were referred to the Committee on the Judiciary.

He also laid before the Senate two letters in the nature of memorials from citizens of the State of Louisiana, endorsing Hon. HUEY P. LONG, a Senator from the State of Louisiana, condemning attacks made upon him and remonstrating against a senatorial investigation of his alleged acts and conduct, which were referred to the Committee on the Judiciary.

He also laid before the Senate a petition of sundry citizens of Bay Ridge, Brooklyn, N.Y., praying the Senate to adopt a resolution to the effect that it does not endorse the inquiry for which "the taxpayers' money was paid to Gen. Samuel T. Ansell" in connection with the senatorial campaign investigation in Louisiana, etc., which was referred to the Committee on the Judiciary.

RESOLUTION OF HOBOKEN NATIONAL MEMORIAL ASSOCIATION

Mr. KEAN presented a resolution adopted by the Hoboken (N.J.) National Memorial Association, which was referred to the Committee on the Library and ordered to be printed in the RECORD, as follows:

HOBOKEN NATIONAL MEMORIAL ASSOCIATION,
HOBOKEN, N.J.

Whereas the President of the United States of America, by proclamation duly issued, called all loyal sons to the colors of this great country on April 6, 1917; and

Whereas 2,000,000 of them took up arms in our defense overseas; and

Whereas hundreds of thousands embarked from Hoboken in Hudson County in the State of New Jersey; and

Whereas after the armistice on November 11, 1918, hundreds of thousands returned to their home soil through the gateway of Hoboken; and

Whereas a boulder and flag staff were erected and dedicated to mark this spot of egress and ingress in 1925 by Hoboken assembly of the Knights of Columbus; and

Whereas the veteran, fraternal, and civic organizations of the city of Hoboken desire to perpetuate this site as a permanent memorial: Therefore be it

Resolved, That the Hoboken National Memorial Association, in regular meeting assembled this 1st day of May A.D. 1933, hereby petition the Senate of the Congress of the United States of America to do all in its power to set aside a suitable plot of ground at the entrance to the piers, now in control of the United States Shipping Board, at Hoboken, as a national memorial to commemorate the egress and ingress of the valiant sons and daughters of this Nation who left or returned through this portal during the late World War.

Done under the seal of the chairman, secretary, and committee, at Hoboken, Hudson County, N.J., this 1st day of May A.D. 1933.

JOSEPH M. CURIO, *Chairman.*
S. KALLER, *Secretary.*

Patrick Barry, Grand Army of the Republic; Fred A. Williams, Sons of Veterans; David J. Alexander, Spanish-American War Veterans; Michael Montet, Knights of Columbus; Justin B. Falk, Benevolent and Protective Order of Elks; Fred A. Williams, Fraternal Order of Eagles; Francis J. Conroy, Disabled American Veterans; Theodore C. Ivers, Commander Veterans of Foreign Wars; Thomas J. Kenney, American Legion Post, No. 107; ——— ———, Free and Accepted Masons; Michael Mantet, Foresters of America; ——— ———, Junior Order United American Mechanics, Committee; Frank B. Hoffman, secretary; J. S. Hamill, P.S.; Chas. E. Schmidt, K. of W.; Walter J. Hoey; Owen Mulvaney.

TREATMENT OF JEWS IN GERMANY

Mr. KEAN presented resolutions adopted at a meeting of American-Jewish citizens of Monmouth County, in the city of Asbury Park, N.J., which was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

Whereas a protest has been made heretofore on the 27th day of March 1933 at the high-school auditorium in the city of Asbury Park, county of Monmouth and State of New Jersey, against the intolerant policy of the Hitler government in relation to the Jews of Germany, in which protest participated the lay and spiritual leaders of Jewish, Catholic, and Protestant religions of the Monmouth County seaboard, as well as civic, political, and industrial leaders of said county; and

Whereas this formal protest was delivered to the State Department of our Federal Government and to the German Ambassador, Wilhelm von Prittwitz; and

Whereas verified and confirmed reports from Germany have since that time brought to America, day after day, the news of a systematic and thorough exclusion of Jews from the civic and political life of Germany by the Hitler government, an exclusion which expresses itself in the elimination of Jews from all federal, state, and local offices; the wholesale dismissal of Jewish physicians; the forced retirement of Jewish professors and instructors from the colleges and universities and smaller educational institutions; the ejection of Jewish judges from the courts; the expulsion of Jewish lawyers from the bar; the limitation and restriction of the attendance of Jewish students in all the higher educational institutions: Be it therefore

Resolved at this meeting of American-Jewish citizens of the county of Monmouth, State aforesaid, held this 10th day of May 1933, at the Synagogue, Sons of Israel, in the city of Asbury Park, county of Monmouth and State aforesaid, That we do hereby most emphatically condemn the unjust, intolerant, and outrageous anti-Semitic measures, policies, and discriminations of the Hitler regime; and be it further

Resolved, That we do hereby call upon the Honorable W. WARREN BARBOUR and the Honorable HAMILTON F. KEAN, United States Senators for the State of New Jersey, and also upon the Honorable WILLIAM H. SUTPHIN, Congressman of the Third Congressional District of the State of New Jersey, to raise their voice of protest in the Halls of the United States Congress, move for the adoption of the resolution by the Congress and the Senate denouncing the unjust, unwarranted, and inhuman exclusion of Jews from the civic, political, and professional life of the country in which they have lived over sixteen hundred years, and to which they brought untold glory and distinction in every field of endeavor; and be it further

Resolved, That we call upon the Honorable Franklin D. Roosevelt, President of these United States, to use his good offices in behalf of the oppressed and persecuted Jews in Germany.

Respectfully submitted by the resolutions committee.

MEYER COHEN,
Rabbi of Congregation Sons of Israel, Asbury Park, N.J.
SYDNEY DRESDEN,
President Congregation Sons of Israel, Belnar, N.J.
RALPH B. HEACHEN,
Temple Bethel.
BENJAMIN FREEDMAN,
President Asbury Park Hebrew School.
LOUIS I. MILLAR,
President of Congregation Sons of Israel.

REPORTS OF THE PUBLIC LANDS COMMITTEE

Mr. DILL, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1727. An act for the relief of Earl A. Ross (Rept. No. 84); and

S. 1728. An act for the relief of Frank P. Ross. (Rept. No. 85).

Mr. BRATTON, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 1724) authorizing the reimbursement of Edward B. Wheeler and the State Investment Co. for the loss of certain lands in the Mora Grant, N.Mex., reported it without amendment and submitted a report (No. 86) thereon.

ADDITIONAL COPIES OF FARM LOAN EMERGENCY ACT

Mr. VANDENBERG. Mr. President, there is a great demand by Senators and Members of the House for additional copies of the Farm Loan Emergency Act. On behalf of the junior Senator from Arizona [Mr. HAYDEN], Chairman of the Committee on Printing, he being unavoidably absent, I present a unanimous report on Senate Resolution 83 from the Committee on Printing to provide additional copies of the act, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the request of the Senator from Michigan?

There being no objection, the resolution (S.Res. 83) was read, considered, and agreed to, as follows:

Resolved, That 25,000 copies of Public Law No. 10, approved May 12, 1933, relating to agricultural adjustment, agricultural credits, and currency expansion, be printed for the use of the Senate document room.

ENROLLED JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on May 19, 1933, that committee presented to the President of the United States the enrolled joint resolution (S.J.Res. 50) designating May 22 as National Maritime Day.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. VANDENBERG:

A bill (S. 1737) authorizing a preliminary examination and survey of the Crooked and Indian Rivers, Mich.; to the Committee on Commerce.

By Mr. McCARRAN:

A bill (S. 1738) authorizing the Reconstruction Finance Corporation to make loans to irrigation districts for certain purposes; to the Committee on Irrigation and Reclamation.

By Mr. SHEPPARD:

A bill (S. 1739) to relieve the existing critical national economic emergency in agricultural as well as in commercial and industrial pursuits; to the Committee on Agriculture and Forestry.

AMENDMENT TO BANKING BILL

Mr. CLARK submitted an amendment intended to be proposed by him to Senate bill 1631, the banking bill, which was ordered to lie on the table and to be printed.

WORLD ECONOMIC CONFERENCE—ARTICLE BY FORMER AMBASSADOR EDGE

Mr. KEAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article by former Ambassador Edge in regard to the forthcoming World Economic Conference, published in the New York Tribune of last Sunday.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune, May 14, 1933]

EDGE URGES UNITED STATES TO RENOUNCE INTERNATIONAL SANTA CLAUS ROLE BEFORE NEW CONFERENCE OPENS—SEVERAL NATIONS ALREADY IN LINE FOR ECONOMIC HORSE TRADING AND AMERICA SHOULD NOT FORGET HER CREDITOR POSITION WHILE CONSIDERING LOWER TARIFFS AND TRADE PACTS, FORMER ENVOY WARNS

By Walter E. Edge, former American Ambassador to France

These are days when every citizen, irrespective of previous political or economic convictions, should contribute all in his power in the interests of national solidarity. However, in my judgment, this goal can best be reached, or at least more headway made, through frankly facing the facts.

Of course, we should approach the responsibilities of the World Economic Conference whole-heartedly, enthusiastically, and with determination to secure definite results. In fact, the recent Washington conversations certainly demonstrate that intention. Nevertheless, in the interest of harmonious and constructive action, it occurs to me it might be just as well for the United States, in advance of the convening of the conference, to let it be known that we do not propose to be an international Santa Claus.

The apparent diffidence of the nations invited to enter into a tariff armistice before and during the duration of the conference is in itself significant. It must not be overlooked that some of the countries abroad have for months been preparing and arming themselves for future bartering and horse trading. While our Government has been suggesting the lowering of tariffs and the elimination of other trade restrictions, European nations have been adding them on as well as concluding new treaties which exclude the United States. Now that a definite proposal is made by us to stop this practice, at least during the period of discussion, we are met generally with a lack of enthusiasm and, in fact, in some instances, with definite reservations.

This should serve as a note of warning that, notwithstanding the optimism which seemed to surround the Washington conversations, some foreign governments, nevertheless, are still recalcitrant. If, in the hope of increasing our export trade, we are to face a proposition for the cancelation, or at least a substantial revision, of war debts, the validity and legality of which no nation has questioned; if we are to remove protection from local producers through lowering our tariff and then in the final analysis we are expected to again loan Europe money in order to buy our goods, as obviously Europe will not take many of our wares without new loans, then a little advance figuring from a domestic standpoint would seem to be quite justified.

Our experience in international conferences in terms of the results obtained does not warrant much optimism—except where we are prepared to make the major sacrifices.

STEPS TOWARD DISARMAMENT

Consider, for instance, the various steps toward a disarmament agreement.

At Washington in 1921 real progress was made in the direction of the limitation and reduction of capital ships when the United States agreed to scrap ships built or building while other nations nobly sacrificed their blueprints.

At London the results were relatively negligible and limited to three naval powers, while at Geneva, despite our many proposals for real reduction, notably former President Hoover's move for a one-third curtailment, nothing has eventuated except generous discussion. Nevertheless, even with all these previous discouragements, it is obviously our clear duty to press on in the hope that present world conditions will ultimately compel broader understandings and more liberal reactions.

After 3 years abroad in the Foreign Service, I am more than ever convinced that America is basically dependent economically on a scientific preparation and application of a protective tariff that fully protects. If the present disinclination on the part of other nations to enter into a tariff truce is any criterion, then they must hold the same opinion as applying to their own problem.

I do not attempt to defend many inconsistencies and inequalities in our existing tariff schedules. Nevertheless, I feel quite positive that tariff trades, unless they followed a comprehensive and individual study which justified reductions, would add signally to our economic difficulties by inviting sectional discord and still further reduce our standard of living as well as increase unemployment, all without comparable compensation in the form of greater markets for our goods abroad.

WORLD CARTEL IDEA IMPRACTICABLE

If the producing countries of the world could form an international cartel, as it were, control production and amicably divide the world's markets, the situation might be improved. But, apart from the absolute impossibility of reaching, or at least carrying out, such a utopian agreement, I greatly doubt the wisdom or efficacy of this course.

The world, generally speaking, has prospered through healthy competition. It only started on the downgrade when an uncontrolled orgy of speculation set aside all normal practices and precedents.

Following my retirement from the ambassadorship, I visited the capitals of all the Balkan States, as well as other countries in southern and eastern Europe. I had the privilege of chatting unofficially and informally with many of the rulers and cabinet officers of those different states. I was particularly impressed with the unanimity of opinion, freely expressed, that nothing concrete could come out of the proposed economic congress if the disarmament conference failed to reach real agreements. The pessimism in this regard was universal.

I am far from being an extreme nationalist. But I feel strongly that in the present zeal for international idealism we should not evade the facts or practice self-deception.

LITTLE ACCOMPLISHED SO FAR

The years since the war have been replete with fruitless conferences. The interests of the people are so diverse, their ambitions and emotions so complex, that little headway in the field of material international agreement has been found possible. I regret to admit it, but it is my firm conviction that most of our problems of national recovery must be worked out within our own borders, and we now seem to be making commendable headway in that direction.

Of course, progress was made at Lausanne toward the solution of the reparations problem. But it should not be overlooked that that agreement is apparently contingent upon further sacrifices by Uncle Sam. Moreover, it is not much of a concession to wipe off a type of credits that will not be paid in any event.

Possibly the United States is facing similar difficulties with war debts, but before these just claims become actual stage money there are some justifiable bargains and adjustments that can and should be made, and that without involving the destruction of vital protection to American labor and industries.

There are trade restrictions practiced by some of our debtors, many discriminatory, that should be adjusted before we seriously talk revision. We hold a very effective weapon and are from every standpoint justified in using it.

In short, in our negotiations we should not give up the cake and the penny too.

CRITICS ADVISED TO LOOK AFIELD

Those who charge against our protective system most of the present economic ills and particularly criticize our nonscalable tariff wall, as they characterize it, seldom make comparisons with what is being practiced by competitive nations.

Efforts to blame our protective system, even despite unfair and unjust trade restrictions in many parts of Europe, as the major cause of the depression is simply to evade existing facts. I cannot understand the policy of some of our own people, especially when they see what is taking place abroad, of pointing to the United States as a glaring example of trade barriers and prohibitive tariffs.

In point of fact, the United States presents the fairest tariff policy in the world today. While some of our individual schedules are undoubtedly too high and should, when not justified by trade or production facts, be lowered, nevertheless our general application of the most-favored-nation principle treats all competitors alike and establishes the United States as an open market without any favorites among the nations.

The same cannot be said for many of our neighbors. Quota restrictions which are nothing more nor less than partial embargoes, discriminatory turn-over and license taxes (none of which are in effect in the United States) form trade barriers against American imports which cannot be surmounted. The United States has been able to close commercial treaties with but few nations because of these obvious discriminations.

While a reversal of our economic policy and the substitution of a bilateral or bargaining system for general most-favored-nation treatment has some support, I am of the opinion that in the long run it would open the way to untold difficulties and surely invite reprisals. The fact must not be lost from sight that we are the greatest creditor nation in the world.

Again, when the proposal is made to discard our present open-door policy, careful consideration must be given to the character

of our foreign trade. Even in normal or affluent times we have exported less than 15 percent of our production, divided into approximately 11 percent of raw materials and under 4 percent manufactured goods. In other words, the outside world purchases from us mainly such materials as it cannot buy on equal terms from other nations in the open market for purposes of domestic manufacture.

While I do not minimize the importance of disposing of even this relatively small proportion of our production, at the same time I fail to see where our protective system, which is similar to the system prevailing in all other countries, influences, much less controls, purchases of our goods by foreign countries at world's prices. It has not in the past and in normal times will not in the future, if we have the required material to sell.

It is plain, ordinary common sense that a foreign nation purchases from the outside only what it does not produce at home and then at the best prices it can obtain. As a rule the tariff only indirectly enters into these sales as these needed commodities are usually on the free list.

DOMESTIC MARKET COMES FIRST

The same applies moreover to the small foreign consumption of our manufactured goods, accentuated considerably by inventions and styles. For example, American automobiles and farm machinery have a market everywhere because to date no other country has turned out such satisfactory products.

As a consequence I am convinced that our main effort should be to reinvigorate our domestic market. It is estimated that sales at home have declined about 45 percent as compared with normal times. Most certainly a blanket reduction of our import duty would not correct this situation. Every additional invoice of competitive goods imported must necessarily still further reduce domestic production. This, of course, is an old story, but to me it lies at the very root of the whole situation. Likewise, our exports abroad will increase only with a return of general business activity greatly contingent upon a return of confidence at home which, fortunately, now seems to be on the upgrade. Our energy should be expended still further on that domestic effort.

European countries, unfortunately, are frequently compelled to give more attention to the prevention of warlike outbreaks and to adjust political problems with each other than to the readjustment of international commerce across the sea. It is our duty to help in every way we can without becoming embroiled. In our own interest it is imperative to keep in close touch with every development. But at this time we have, first and foremost, a man's job at home, and I cannot see how a general reduction of the tariff will regenerate American confidence or increase American sales.

At the outset of this article I frankly admitted the existence of many inconsistencies in the American tariff schedules and stated my opinion that they should be readjusted. There is no doubt in my mind that there have been individual cases of unjustifiable tariff boosts. These have doubtless been the origin of much of the criticism of the tariff. To overprotect a commodity is as wicked as to expose it to the raids of cheap foreign importations. In the former case the consumer is unfairly gouged; in the latter instance the American workman is thrown out of emplcyment.

AN EXAMPLE OF MISJUDGMENT

During the period of my official responsibility in France I witnessed one particularly glaring example of attempted overprotection, and I did not hesitate to denounce it publicly. One branch of Congress proposed to raise the ad valorem duty on certain types of hand-made lace, principally produced in northern France and Belgium. The old rate was from 80 to 90 percent ad valorem; the new rate soared as high as 300 percent. Of course, such a raise would have been tantamount to an embargo. The effort failed. Without any doubt if it had been enacted it would have exaggerated the cost to the American consumer.

And while I hope I am a consistent protectionist, nevertheless I refuse to believe that any industry, whether a so-called "infant industry" or otherwise, is entitled to such high protection. If we are unable to produce a commodity at a cost less than 3 times the average world cost, we should permit the other fellow to enjoy the trade. I am no more opposed to embargoes, quota allotments, or discriminatory levies than I am to overprotection.

But if our tariff, equal to all, has seriously contributed to the world's economic troubles, as some insist, then let us repair the error along scientific and not political lines. And if our debt contracts, duly accepted and ratified, are to be reopened and revised, the discriminations and inconsistencies now faced by American exporters must in all fairness be first permanently adjusted.

PUBLIC-WORKS PROGRAM—ARTICLE BY JAMES M. THOMSON

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have inserted in the RECORD an article by James M. Thomson published in the New Orleans Item of May 15, 1933.

There being no objection, the article was ordered printed in the RECORD, as follows:

[From New Orleans Item, May 15, 1933]

LARGER WORKS ISSUE FAVORED—INCOME TAX TO CARRY BONDS

By James M. Thomson

Senator NYE, of North Dakota, offers an amendment to the forthcoming tax bill which may avoid the necessity for a sales tax for the impending public-improvement bond issue. He shows that reflation must necessarily bring vast profits to those who have picked up real estate, stocks, bonds, and other bargains at preclosure or sacrifice sales. So he proposes a supertax on incomes above $100,000 a year. He would grade this tax up to 75 percent of net incomes above $1,000,000 so long as the war on depression and unemployment lasts. He would also enlarge Federal inheritance and gift taxes. In other words, he would follow the course pursued by our Government in income taxation during the late war on Germany.

All taxes are unpleasant and most of them undesirable. The tax which falls heaviest on the consuming masses is a sales tax, for the workingman with a large family necessarily pays more sales tax than a rich but smaller family does, and far more than wealthy individuals who put their time on increasing their accumulations. Sales taxes necessarily tend to impede business, and at this time what we want above all is to speed business up.

Increasing the prices of farm products will put a sales tax running to a billion dollars a year on consumers; in general, most of them city and town people. Likewise limitation of farm production will have the same effect. Yet we have already adopted this policy in the new farm bill in order to restore farmers and farm laborers to industry and give them purchasing power.

I favor not a $3,000,000,000 public-works bond issue but five or even six billion dollars for that purpose.

The war in America is a war to put our unemployed to work. It is a more serious war than the one we waged in Europe. It justifies Federal expenditures on a scale which will insure our winning that war.

As inflation brings back values speculators and gamblers will count their profits by millions and billions. The same men who got income-tax rebates of five or six billions of dollars under the Mellon-Mills administration of the Treasury, following the Hoover panic, will pick up surplus profits of billions of dollars. There is every reason in equity that they should pay a considerable part of this back into the Treasury at a time when it is needed to fight a war on superdeflation and depression. They paid taxes of this kind to aid in the World War. Many of them expressed themselves as glorying in the sacrifice. Surely the condition of unemployment among their fellow citizens should have an even stronger appeal to them. For this expenditure is entirely constructive.

For one I have not sympathized with the agitation for cutting the wages or salaries of either our better-paid Government employees or of our Senators and Representatives. Nor am I in favor of the cutting of the salaries of our presidents of our life-insurance companies or our railroads or of our great manufacturing or industrial organizations. Men of great ability, of experience and skill, men who carry great responsibilities are entitled to a handsome reward for their talents. Congressmen get not too much but too little. Cabinet members and their executive assistants are woefully underpaid. The President of the United States gets too little.

But in times like these there is a moral value in the gesture they make of cutting their salaries while they are cutting Government expenses all round. The people who make the country a going concern are the people who furnish it with brains and brawn. The men and women who live on "unearned increment", who shoot craps in a large way, can in this emergency well afford to contribute to government more of their surplus incomes over a hundred thousand and over a million net per year. They can afford, for a while at least, to pay some additional inheritance and gift taxes.

This talk about all the rich in America being broke is hokum. If it were true, no one would oppose taxes of the kind Senator NYE proposes.

Plenty of concerns in America have net incomes above $10,000,000 this year. There are plenty of individuals whose net income will vary between a million and $5,000,000. And these people can well afford to give part of their surplus which is not invested in tax-exempt bonds and securities.

In England this class of people pay real income taxes and real inheritance taxes. England has used this tax to keep a great dole going to millions of her idle people over a long period. This policy is all wrong, in my opinion. Our people should have work at good wages, not doles. And if we sustain a real public-improvement program with taxes of this kind, we will give our people work, speed up business, stabilize values, and add enormously to the real wealth of the very people who are paying the super taxes. Meantime the little fellow who has been out of work for some years will not have to pay a sales tax on everything he consumes.

NOMINATION OF FEDERAL RELIEF ADMINISTRATOR

Mr. ROBINSON of Arkansas. Out of order, and as in executive session, I ask that the Senator from Florida [Mr. FLETCHER], the Chairman of the Committee on Banking and Currency, may report a nomination.

The PRESIDING OFFICER (Mr. MCCARRAN in the chair). Is there objection? The Chair hears none.

Mr. FLETCHER. From the Committee on Banking and Currency I report favorably the nomination of Harry L. Hopkins, of New York, to be Federal Emergency Relief Administrator, and I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection?

Mr. McNARY. Mr. President, I stated yesterday the general practice and the desire not to take up matters of this kind until reported by a committee. I understand that the report on this nomination was unanimous.

Mr. FLETCHER. That is correct.

Mr. McNARY. And in view of the emergent situation about which the able Senator from Arkansas told me, I have no objection to having the nomination acted upon, and, going farther, to having the President notified.

The PRESIDING OFFICER. Without objection, the nomination is confirmed, and the President will be notified.

Mr. ROBINSON of Arkansas. I thank the Chair and the Senator from Oregon.

OPPOSITION TO SECURITIES REGULATION BILL

The Senate resumed legislative session.

Mr. LEWIS obtained the floor.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Florida?

Mr. LEWIS. The distinguished Senator from Florida has a matter which he feels that he would like to present at this time and it is more or less dependent upon a matter waiting outside. I yield to the Senator, with the understanding that I do not yield the floor and that I may take the floor immediately following the conclusion of the remarks of the Senator from Florida.

Mr. FLETCHER. Mr. President, it was not to be expected that a measure, such as the Federal securities bill, now in conference, designed to protect the public from the financial racketeering of certain classes of so-called "investment bankers", could be enacted without arousing the most determined opposition on the part of that profession which has mulct the people of some $50,000,000,000 during the past 10 years.

These interests were given their day in court in the hearings before both the Senate and House committees and submitted voluminous briefs, but it is evident from the almost unanimous approval of the bill in both Houses, that their arguments made little impression.

Every effort was made by both committees to satisfy every reasonable criticism or objection made to the bills. It became necessary, therefore, for opponents to resort to other expedients, and this has taken the form of inspired telegrams and letters to the members of the conference committee, seeking to influence their decision and to postpone further action on the bill until the next session of Congress when, these interests hope, sufficient time will have elapsed for the public and the Congress to have forgotten to some extent the occurrences of the past few years.

Not all the firms, however, to whom they sent instructions to wire protests to committee members were in sympathy with the suggestion. One of these latter has sent to the committee a copy of the telegram of instructions they received, which, the writer states, was sent by "representatives of perhaps a thousand investment bankers in the United States, including especially the principal ones in New York City." This telegram reads in part as follows:

> Vitally important that you contact immediately executives of important industries, urging that they wire immediately Hon. SAM RAYBURN, House Office Building, and Hon. DUNCAN U. FLETCHER, Senate Office Building, Washington, the ranking members of the conference committee, stating in own language that while intent of Federal legislation approved, both bills as drafted are unworkable and constitute serious menace to industry.

Mr. COUZENS. Mr. President, may I ask the Senator from Florida who signed that telegram?

Mr. FLETCHER. I have not the original telegram with me, but it comes, I believe, from St. Louis.

Mr. COUZENS. They have been coming to Senators other than the conferees.

Mr. FLETCHER. Yes; undoubtedly.

The Senator from Nebraska [Mr. NORRIS] made it clear in the Senate on May 4 that the president of the United States Chamber of Commerce has always been essentially a promoter and director in numerous public-utility companies. He listed more than 20 power companies which Mr. Harriman had either promoted or in which he serves as an executive or member of the board of directors. The report of the Senator from Nebraska stated that—

> Mr. Harriman has exhibited no grief over billions of watered stock on which the consumers must pay higher rates to maintain dividends.

Moreover, it is well known the United States Chamber of Commerce includes numerous investment bankers, brokers, and dealers among its membership. That organization's instructions, transmitted through local chambers to their more important members, reads as follows:

> Believing that you should interest yourself in opposition to these bills which are now being considered by the conference committee of Congress, I urge that you immediately wire the Honorable DUNCAN U. FLETCHER, Senate Office Building, and the Honorable SAMUEL RAYBURN, House Office Building, Washington, D.C., stating in your own language that—
>
> You are in sympathy with the intent of Congress to regulate the issuance of securities but believe both bills (giving their numbers), as drafted, are unworkable and also are a serious menace to industry and business generally.

The securities bill, now in conference, received the most careful consideration by two Federal departments before being submitted to Congress and has been minutely studied by the committees of both Houses for some weeks past with the assistance of recognized authorities on investment matters, who have gladly contributed their aid in drafting and editing this measure. When its provisions were first released to the public, it was received with editorial acclaim throughout the entire country, including that financial authority, the Wall Street Journal.

The proposal was also well received by most of those financial institutions that desire to do a legitimate business and realize the absolute necessity of restoring public confidence before they can prosper. One firm, for example, that had been asked by certain investment bankers to wire a protest, did the contrary and telegraphed the committee as follows:

> Earnestly against this organized effort of bankers to thwart just legislation by the administration and that they were still subjected to efforts to whip them into old-gang line, whereas they conceive the salvation of investment banking business solely dependent upon restoration of confidence by assurance that past crookedness will not occur again in short time.

Truly, these instructions sent out by the chamber of commerce and the investment brokers have had quite a contrary effect of that intended and, boomeranglike, have done their cause far more harm than good.

While pretending to be favorable to the President's message and declaring they were in accord with the purpose of the legislation, they insisted on delaying action, and although they had been offered every opportunity for being heard, and were heard for weeks, they urged, after the hearings closed and the bills were reported, that they be given additional time and opportunity to present their views. They simply wish to be let alone, have their own way, pursue their own course, without any restriction or regulation, as in the past.

The country justly demands that the public have some protection, real investors some safeguards, and honest business a legitimate chance.

The conferees have agreed, and helpful and needful legislation will be enacted shortly.

I wanted to make this statement in connection with the bill because I know that Senators have been bombarded by this kind of telegrams stating in a general way that the bill is not workable and will do more harm than good, and asking to have it postponed for future consideration. I ask that the Senate, when the time comes, will take action at once and that this legislation may be placed upon the statute books.

Mr. President, I ask to have printed in the RECORD a copy of my letter to Mr. Harriman with reference to the legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter is as follows:

MAY 8, 1933.

Mr. HENRY I. HARRIMAN,
President Chamber of Commerce of the United States, Washington, D.C.

MY DEAR MR. HARRIMAN: Yours of May 8 came to me just after the bill passed the Senate today.

We passed the Senate bill with some amendments and then substituted it for the House bill, so the whole matter will now go to conference. The Senate today named conferees and probably tomorrow the House will name conferees, and they will endeavor to harmonize the differences between the two bills.

This will give an opportunity for the conferees to consider any suggestions you may make. There will be no hearings, but if you will submit your views in writing, or make any suggestions, I am certain the conferees will give them due consideration.

I am very much afraid the people you are hearing from are against the legislation entirely.

The President submitted a special message asking for the legislation March 29.

The bill, S. 875, was introduced on March 29 and referred to the Judiciary Committee.

On March 30 the Committee on the Judiciary was discharged and the bill was referred to the Committee on Banking and Currency.

That committee took it up at once and proceeded with the hearings, day after day, until everyone who had applied had an opportunity to be heard.

The newspapers carried notices of the fact we were holding hearings on the bill; numerous persons testified and submitted arguments and briefs.

Many amendments were made to the original bill—so many, in fact, that the committee decided to report a substitute bill, and that was done on April 17 (calendar day April 27).

The hearings had been held almost daily from March 30 to April 27. Everyone who wanted to be heard was heard. Investment bankers, accountants, business men, brokers, and what not were heard. There was scarcely a day that the press did not carry notices regarding this bill and these hearings.

Now for these people to speak about not having an opportunity to be heard on the bill is ridiculous.

The House committee held hearings, and finally when their hearings were closed a subcommittee got together with their experts and drafting force to prepare the bill, and did so, and the House finally passed the bill H.R. 5480 May 4.

Today the calendar was taken up in the Senate, and the Senate proceeded to consider S. 875.

A few amendments were offered to it and agreed to.

As amended, it was substituted for the House bill, and the conferees on the part of the Senate were named.

We would be here until Christmas if every individual had to be satisfied about the bill; in fact, we would never have any legislation at all.

All I can say is, as I have stated above, if anyone has anything to say about the bill or any views or suggestions to offer, I feel certain the conferees will consider them. As the case now stands, both the House and Senate bills are in conference and each provision in each bill can be dealt with by the conferees.

Very truly yours,

DUNCAN U. FLETCHER, *Chairman.*

Mr. FESS. Mr. President, may I ask the Senator from Florida, in reference to the correspondence about which he has just commented, whether the letter from the president of the chamber of commerce was a recent one or whether it had reference to the House bill?

Mr. FLETCHER. It was a recent letter. His letter was dated May 9.

Mr. FESS. I had a letter earlier from the president of the United States Chamber of Commerce to the same effect, but I thought the Senate bill had largely cured the objections which were being made and which were directed to the House bill. I am receiving a great number of letters from Ohio that have probably been stimulated by this interest coming from Washington. I answered them to the effect that in my judgment the Senate committee reported the bill which the Senate passed and sent to conference that cured very largely the specific objections that had been made.

Mr. FLETCHER. I think the Senator is quite right. There has been a great deal of confusion. Some have had the Senate bill and some have had the House bill, and they have been filing complaints about them when neither of them will be the bill that is to be reported.

Mr. FESS. That is why I wanted to know whether the letter was a recent one.

Mr. FLETCHER. Yes; it was dated May 9. It had reference to one bill or the other, but the bill that will be reported is still another bill. It is partly the House bill and partly the Senate bill. I think many criticisms are not well founded at all because they have been cured by subsequent action of the Senate or House.

CONFERRING OF DEGREES UPON NAVAL ACADEMY GRADUATES

Mr. TRAMMELL submitted the following report, which was ordered to lie on the table:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 753) to confer the degree of bachelor of science upon graduates of the Naval Academy having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: After the word "academies", at the end of the said amendment, insert the following: ", from and after the date of the accrediting of said academies by the Association of American Universities"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

PARK TRAMMELL,
FREDERICK HALE,
Managers on the part of the Senate.

CARL VINSON,
FRED A. BRITTEN,
Managers on the part of the House.

RESIGNATION OF JOHN MARRINAN

Mr. COSTIGAN. Mr. President, Mr. John Marrinan, a trusted investigator of the Committee on Banking and Currency, recently resigned. He desires placed in the RECORD—and I am glad to comply with the suggestion by requesting its insertion—some correspondence relating to his resignation. There has been some misunderstanding of the reasons for his resignation, and of his helpful offer in connection with it to assist the committee through the hearings set for the coming week, and otherwise to aid as a consultant.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON BANKING AND CURRENCY,
May 20, 1933.

Hon. EDWARD P. COSTIGAN,
United States Senate, Washington, D.C.

DEAR SENATOR COSTIGAN: A public misapprehension seems to have arisen through publication of an incomplete account of my tender of resignation as an employee of the Senate Committee on Banking and Currency in connection with the inquiry into investment practices. As you were advised when my resignation was offered, it was to become effective at the end of the present month. I have had an active part in the investigation of private-banking practices, regarding which public hearings are to be held next week. I have intended, and still intend, to give every assistance to the committee until this phase of the inquiry is concluded. You are aware of my further offer to serve as a consultant to the committee during the future conduct of the investigation upon invitation to do so.

Will you be good enough to have printed in the CONGRESSIONAL RECORD the two attached letters pertaining to my resignation? They make it clear, I believe, that I have had no desire to retire until the forthcoming public hearings on the affairs of J. P. Morgan & Co. and other private bankers have been closed.

Yours sincerely,

JOHN MARRINAN.

MAY 17, 1933.

FERDINAND PECORA, ESQ.,
Suite 1110, 285 Madison Avenue, New York, N.Y.

DEAR FERD: The attached copy of letter to Senator FLETCHER will require no explanation. All I can add to it is that I dislike leaving the very agreeable association I have had with you. I have been in this picture since the investigation started. In retrospect, I count my most valuable contribution to be the part I played in retaining you as counsel.

It is needless for me to add that I am under no obligation whatsoever to anybody until June 1. You may, therefore, count upon me fully until that time.

Yours sincerely,

JOHN MARRINAN.

MAY 17, 1933.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D.C.

DEAR SENATOR FLETCHER: I wish to tender my resignation as economic adviser to the Senate Subcommittee on Banking and Currency which is conducting the investigation into investment practices under the terms of Senate Resolution 56, Seventy-third Congress, first session. If agreeable to you and to the committee, I should like to terminate my services as of May 31 next.

I am taking this step with reluctance by reason of my interest in the work of the committee and the personal satisfaction I have derived from being associated with you and with Mr. Pecora. However, my personal circumstances have moved from bad to worse over the past year by reason of the salary limitation imposed in the Legislative Appropriation Acts of 1933 and 1934, and I find myself unable to continue on my present income. Moreover, there does not appear to be any easy remedy within the power of the committee, because I am already receiving the maximum permitted by law, namely $255 per month net. It should be added that other members of the staff are in the more fortunate position of having supplementary sources of income.

I desire to express to you and to the individual members of the subcommittee my sincere gratitude for the consideration shown me during my period of service. If I can be of assistance without remuneration as a consultant during the further course of the committee inquiry, I would be glad to have you call on me.

Yours sincerely,

JOHN MARRINAN.

PROJECTED CONSULTATIVE PACT—ITS DANGERS IF MISUNDERSTOOD

Mr. LEWIS. Mr. President, I beg for a moment to enter to a subject that is not akin to finance and the banking bill, as to which addresses have just been made by the honorable Senators from Florida and Michigan. I embark, sir, on a theme to which I am moved by assertions from international publications—all of eminent source—that do injustice to the United States.

Mr. President, an eminent philosopher-poet has left for our consideration the suggestion that Falsehood upon the wings of Mercury will take its course, in winding ways, and proclaim itself all virtue—and with such rapid strides find abiding places, and from these herald posts hiss its mists of deadening miasma, while Truth, with her leaden heel and slow approach, will move so slow behind the masked cavalcade that she will never overtake to convert to right the legions who, trembling with alarm and disturbing concern, are fixed breathless in fear.

The European press, flashing its continental sensation, makes free to announce that the eminent spokesmen of the great nations of Europe, whose representatives have had the honor of being lately in consultation at Washington with the distinguished President of the United States—these renowned envoys were received with that courtesy which becomes, of course, the ever-hospitable manners of the United States and the welcome of its people to the strangers within our gates—sirs, we today have it reported that these ambassadors of international unity proclaim that there was an agreement made between those who represented a European national situation with the President of the United States that the United States and its people will enter into a "consultative pact"; that this so-called "consultative pact" binds the United States to become a party to whatever controversy should arise between those foreign nations as between themselves, or as between themselves and the Asiatic countries, should such arise.

The impress is very clearly conveyed to affirm that the United States is on the eve of closing into some form of understanding which the writers characterize and the parliamentary spokesmen in public assemblages define as a pact in which the United States will, upon invitation, enter into the consideration of whatever controversy or conflict there is pending or threatened between any countries of Europe, or that of any countries of Europe and Asia. It is asserted that under this compact we will adjudge which of these in contest or conflict is the aggressor nation. May I use the exact language as I read it, saying—

> It will be left to the United States to judge which is the aggressor to be punished.

It is claimed that when one has been determined as the aggressor the form of punishment to be inflicted will be decided, or at least will be controlled, by the course that the United States may suggest should be taken.

Mr. President, to ourselves in the United States these projected boastings mean little. We in public life, in all public posts—my eminent colleagues who sit about me on both sides of the Senate—know how often exaggerated observations are indulged. Sometimes such is fulminated to serve some local purpose in Europe, or, perchance, to serve an object at home here in America. Then ofttimes, as is the case now, when such will enhance the value of eminent representatives or when such will impart certain credit to the foreign nations which are busy in sending forth the propaganda that best serves its immediate object then in hand.

Mr. President, I make bold, as a Member of this honorable body and as a citizen of the United States, to say it is an error of fact from any source which asserts that the United States has now entered, or in the future will enter upon, any form of an arrangement called "a consultative pact" in which we volunteer to sit in judgment in the controversies between European nations that do not touch us in any form. Or, sirs, to enter in the controversies between European nations and Asiatic nations which in no wise affect our interests, but did we so depart, would leave us as an intruder or offensive trespasser.

Sirs, from this forum we tell the world that the people of the United States have never authorized any President of the United States of the past, nor, if I conceive them correctly—as I feel I do—for any future, will the United States be directed or authorized to enter into any form of an arrangement by which we are to sit in council and judgment touching the conflicts of foreign nations with each other, and never in our own behalf, ex cathedra, adjudge and decide who is the aggressor in any national conflict of Europe or Asia and proceed upon our verdict to inflict a form of penalty—these penalties as is reported in one of these statements I hold in my hand, by "withdrawing commercial credit", "withholding governmental association", and then latterly to determine what form of force we will put behind the decision in order that it shall be executed according to the will of the United States. Now, sirs, our Nation has a President who never could be allured by seductive glamor nor forced by intimidations to offend the spirit of his Nation or violate his fixed principles of a constitutional officer now fulfilling oath and duty. To hold him out as capable of either offense is to slander his wisdom and impeach his patriotism.

Sir, this country ought not be subjected to the charge by these eminent sources of Europe of ever having been willing to enter into the broils of the governments of foreign lands, nor to consent to act as a judge as between their conflicts, and decide which, from our point of view, is an aggressor, and then proceed to inflict such punishment as the European nation will define, as called for and justified from the circumstances as presented to us by these European contestants.

Sirs, we can say for our President that through him the United States will not enter into any arrangement called a "consultative pact" that calls for any other consultation than that to which it may be invited to offer its advice and counsel as to the best manner of maintaining the peace, avoiding conflict, and, in every possible instance that we can command, obstructing war. Sirs, the people of the United States shall not now be deluded with the theory, visioned from foreign report, that there has been any secret understanding indulged here at Washington between these eminent representatives of foreign nations and the distinguished President of the United States that would so violate the traditions of our land as to intimate that we have voluntarily assumed to come into an offensive pact whenever invited, to the end that we may render judgment in favor of one and against another of the foreign nations, and then suggest, in the plenitude of our trespass, the form of penalty that should follow, and thereupon be prepared to see that the penalty should be executed by whatever force may be demanded by these foreign representatives to carry out the principle of whatever their contest may be. This violation of our basic principles of self-government and home rule will never be inaugurated by a democratic United States of true republican form.

Mr. FESS. Mr. President, will the Senator permit an interruption?

The VICE PRESIDENT. Does the Senator from Illinois yield to the Senator from Ohio?

Mr. LEWIS. Certainly; I am pleased to yield to the Senator from Ohio.

Mr. FESS. My inquiry is as to how far we could go in consultation and still be free from the application of any penalty. In other words, I have never felt any great hesitancy about the Government of the United States consulting with others, but my fear has always been that a judgment to be arrived at might carry with it the inference of sanctions or enforcements of it; and my query to the Senator is, How far could we go in the former without being subject to the criticism of the latter?

Mr. LEWIS. Mr. President, the eminent Senator from Ohio, learned, as we know, by his experience in public affairs of the great possibility of danger of this United States entering into either a conflict of words or a conference where we will make a decision as to the right of one foreign nation and the wrong of another, propounds a pertinent query. I answer the Senator: The furthest it was ever the intent of our countrymen to authorize our representatives to enter into that which would be called a consultative pact is that which has ever been their privilege and ever been their offering in every instance of conflict—which is the mere advice and counsel as to the manner in which peace may be preserved and to act as some interceding agency looking to the restoring of good feeling and complete harmony; but never, I answer the able Senator from Ohio, was it the intent of our country, nor, I make bold to say, the intent of the distinguished President of the United States now sitting, that we should be called into any pact that must result in our passing judgment and being left in a position where the nation against which we offer judgment is to be our enemy and carry within its bosom a hatred of us; while that which we favor would immediately expect of us strength and force sufficient to carry out the decision that was in its favor and benefit. For the reason, sir, that either one of these may transpire, I will assume that no consultation beyond that which we have ever indulged—to wit, the advices of a good friend—can go, and no farther should it assume to go.

Mr. BARKLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Illinois yield to the Senator from Kentucky?

Mr. LEWIS. I yield to my friend from Kentucky.

Mr. BARKLEY. I desire to ask the Senator whether he opposes this country consulting with other countries, or with representatives of other countries, in a mutual, world-wide effort to bring about peace or prevent armed conflict? And if the United States should enter into an agreement to sit down at a table and consult about the best methods by which peace could be preserved, does the Senator think there would be any implication in such consultation that if there was failure of the consultation, and armed conflict should finally result somewhere, we would be under any obligation to enter into that conflict?

Mr. LEWIS. I answer my able friend from Kentucky by saying that, if we are asked to sit at table for conference looking to the general peace of mankind, we fulfill that spirit that loves peace and serves humanity that is ever that of the United States. Yet, sir, to be seduced into a conference where already conflict has ensued, and war is threatened, and where the question to be determined is as to which is the aggressor in that particular matter, I say to my able friend from Kentucky that such course is no part of the duty of the United States; and, should it enter upon such, that action would involve the United States rendering judgment against one country in order to favor the other with a decision affirmatively asserting its innocence. We should keep out of intermeddling with the affairs of European countries which in no wise affect ourselves. Therefore, I can see great danger from it; and, I answer my able friend from Kentucky, so great a danger that I would advise my country under all considerations to avoid any gathering or such pact with such baleful object.

Mr. BARKLEY. Mr. President, if the Senator will yield further——

Mr. LEWIS. I yield to the Senator.

Mr. BARKLEY. I have never understood that the suggestion of a consultative pact carried with it anything more than an obligation or agreement to consult about the world's difficulties and troubles. I have never understood that if a failure to agree upon any policy, or a failure to prevent warfare, should result from such a conference, there was any implication that we thereby obligated ourselves, whatever might have been our position in the consultation, to follow into war for or against any nation which might take part in the conference.

Mr. LEWIS. I answer the able Senator from Kentucky by reminding him that we were invited from time to time into conferences looking to what many of us felt was some order of peace and intercession and mediation as between the countries that were at war—Germany, France, and England—we all remember the final act; and we will not forget that our entrance in being invited through the insidious propaganda with its effect drew us to where our judgments and announcements were held as offenses against other countries involved, and our entrance into these consultations touching the affairs of these outside nations was treated as a violation of treaty and neutrality, and we found ourselves in war, the results of which we are depicting from day to day from this great Chamber, while we suffer the burdens and miseries—and all the unhappy consequences which followed.

Therefore I insist that any pact that this land should enter into, whether through the action of the honorable President of the United States or otherwise, can go no farther than the entrance into a consideration of friendship looking to advice and counsel with the view of avoiding war and preventing conflict. But, sirs, when we are asked by any foreign people or nation to participate in a consultative pact touching relations and conflicts which have already begun in some form, and we are by our pact to pass a judgment as to which is the aggressor, and an intimation as to how the aggressor should be punished, that, I declare, sir, is no part of the duty of the United States. Where our interests are not involved, we should in no wise be brought into such entanglement; and, to avoid such, I respectfully insist there is no privilege on the part of any foreign government to assert that any arrangement has been made with the United States to enter into consultative pacts touching the conflicts already opened in disputive diplomacy or battlefield contest between foreign countries in which we have neither interest nor a part.

Mr. President, I therefore speak of things that are a little too far geographically for all of us to understand. This morning the eminent Senator from Florida spoke as to telegrams which had come to this honorable body. The Senator from Ohio joined in calling attention to similar matters touching purely civic legislation, all urging action on the Senate to serve private interest.

Now comes from our country, particularly in the West, the sheaf of telegrams asserting that certain societies of citizens believe that we have entered into an understanding which is to step in and participate in conferences which are to arrive at which is guilty or which is innocent as between these who have already begun a contest among themselves and anticipate conflicts and wars that would ensue from such. Our people are frightened by this fleshless and unbodied specter.

Our countrymen must be free from any such fear. America must understand that her public officials have never assumed, without the consent of their countrymen, to enter into the affairs of any foreign country, either for the adjustment of their military arrangements or their private financial disputes, and pass judgment as though we were acting as guardian of their affairs or the conservator of their interests. Sirs, from such imaginings we are likely to awaken from our own countrymen a very serious suspicion of our conduct and lose the confidence of the great masses of our people now being so greatly enjoyed by the distinguished

President of the United States. This confidence and trust should not be shattered by the misinterpretations which are going abroad and coming from abroad, and are being published now, recoiling in their influence against the United States.

Mr. President, one other observation I make bold to tender. It is inseparable from the gossip and false whispers as to our Nation surrendering its principles at demand of foreign power. It is said in all quarters that there is something mysterious or hidden in the relationship of the war debts. It is now charged that they have been injected in the movement for the economic conference that is assumed soon to be begun.

I respectfully assert that there is no one who can justify the charge that the President of the United States, or the representatives of this honorable Government, of any political organization, have ever conceded to the theory by which the war debt should be made a basis of discussion and preliminary to the entrance upon the economic conference, the conference that has for its object the purpose only of adjustment of the matters of international trade.

Mr. President, I make bold further to say that if the time shall come when the President of the United States shall assume that there are justifications for entering again upon consultations and conferences as to the debts, looking to the modification of terms or the extension of time, or for whatever reasons urged, I respectfully assert that since we are now going to Europe at the instance of the European nations to assemble at London, and then at Geneva, at London on the economic question, what is ascertained and designated as the tariff truce, and at Geneva in the matter which we define as looking to some method of disarmament.

Then, sir, if the question of the international debts, particularly the war debts, is to be taken up, and then considered anew, separate and apart from these others which at London or at Geneva are to be indulged, I propose that then those discussions, of whatever nature they may be on the war debts now in dispute, this new consideration be taken up here in the United States; I ask that the meeting on that subject, if it shall ever be held, shall be held here, and I would suggest at the Capital of this Nation at Washington. Here it is where the whole question may be free, sir, from the prejudice of the environment which has surrounded the discussion at each previous time it has been entered upon. Here we would be rescued from that prejudice of inherited hatred which followed the World War, and which is still so indulged by certain countries that we see each morning the flickering lights upon the skies indicative of the new flames that flash the fires of war as between some of these nations who are to sit in the deliberations.

If, therefore, this question is, out of the generosity of our hearts, or for the purpose of some justice which we see could follow as a result—I say, if it is to be taken up in a new conference and for a new consideration, justified in the mind of the President of the United States, or the Congress—then, sir, let it be at such a place that the result, whatever it will be, cannot be imputed to the transmitted hatred of nations, and all subject to the mad moments we glimpse in the political upheavals of our surrounding nations.

Sirs, we offer such peaceful and quiet atmosphere to our foreign visitors who come as delegates and envoys. Sirs, all the world knows we are a people who seek no territory; we are a people who seek no penalty. We are of a nation that looks for peace. We are a great government that cries out to the world for the harmony of friendship, the prosperity of nations, and the happiness of man. Let that latter question, if it is to be entered, be entered here, where the arena is calm, where the surroundings are just, and where the environment is such that all mankind will see that, whatever comes from it, comes in the spirit of American justice, to the end that all the world will see our distributed justice—to all people—while America to her own people stands firm in the right and to all her people ever true.

I thank the Senate.

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COMMUNICATION FROM THE PRESIDENT—THE OIL INDUSTRY

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, which was read, as follows:

THE WHITE HOUSE,
Washington, May 20, 1933.

Hon. JOHN N. GARNER,
President of the Senate.

MY DEAR MR. PRESIDENT: As the Congress is doubtless aware, a serious situation confronts the oil-producing industry. Because oil taken from the ground is a natural resource which once used cannot be replaced, it is of interest to the Nation that its production should be under reasonable control for the best interests of the present and future generations.

My administration for many weeks has been in conference with the Governors of the oil-producing States and with component parts of the industry, but it seems difficult, if not impossible, to bring order out of chaos only by State action. In fact, this is recognized by most of the Governors concerned.

There is a wide-spread demand for Federal legislation. May I request that this subject be given immediate attention by the appropriate committee or committees? The Secretary of the Interior stands ready to present any information or data desired.

May I suggest further that in order to save the time of the special session it might be possible to incorporate action relating to the oil industry with whatever action the Congress decides to take in regard to other industries—in other words, that consideration could be given at the same time that action is taken on the bills already introduced and now pending in committee.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

The VICE PRESIDENT. The communication will be referred to the Committee on Interstate Commerce.

Mr. KING. Mr. President, the message of the President which has just been read, if I properly interpret it, may call for an abrogation or a material modification of existing laws against trusts and combinations in restraint of trade. Certainly any measure that would accomplish what the President's message seems to show he desires to have accomplished would require that the Clayton Act and the Sherman antitrust law be modified, that the provisions of the latter be temporarily suspended, or something of the kind. It seems to me, in view of the significance of this question and its importance, and the legal questions involved, the message ought to go to the Committee on the Judiciary.

The VICE PRESIDENT. Let the Chair say to the Senator from Utah that a bill dealing with the entire matter involved in the letter from the President to the Presiding Officer of the Senate was introduced yesterday or the day before and referred to the Committee on Interstate Commerce. In view of that fact, the Chair thought that the letter from the President should be referred to the same committee.

Mr. KING. Mr. President, in view of the measure to which the President refers, I shall not insist upon any change of reference of the President's letter, but I do insist that the committee which considers this question should take into account the fact that, as we are advised, there is a disposition upon the part of industry, including the oil industry, so to modify the Sherman antitrust law and the Clayton Act as that industries may combine in order to conduct their operations.

Of course, the suggestion is made that these combinations shall be effected under the control and supervision of some Federal agency. It seems to presage an introduction into our industrial life of the cartel system of Germany, changing materially the competitive systems under which our country has been led to great heights of prosperity in the past.

Mr. President, something may be said later upon these efforts to destroy our competitive system, repeal the Sherman antitrust law and the Clayton Act, or further so to modify them as that combinations may form and a monopolistic control of industry be brought about in our country.

Mr. ROBINSON of Arkansas. Mr. President, I desire to add a few words to the discussion that has been taking place.

The communication of the President of the United States to the Vice President relates to a subject matter of very great importance. The oil industry apparently is in very great distress. The prices being received for the raw product are so low that they do not even approach the cost of production.

The object of the message which has been received by the Vice President, and kindly laid before the Senate by him, is to assure that prompt consideration will be given to this subject matter. It expresses the hope that the subject matter may be dealt with in one of the general bills which are now pending before the Congress, and I express the hope that the committees having jurisdiction of those bills will heed the suggestion that has been made, and give the matter attention.

Mr. BARKLEY. Mr. President, I suppose I have no authority to speak for the committee to which this communication and the bill have been referred, or for the chairman of the committee, but I think it is safe to give assurance that the committee will give earnest and thoughtful consideration to this message and to any measure that may be framed along that line.

Mr. ROBINSON of Arkansas. The Senator refers to the Committee on Finance?

Mr. BARKLEY. The Committee on Finance and the Committee on Interstate Commerce.

Mr. ROBINSON of Arkansas. Both committees?

Mr. BARKLEY. Both committees; yes.

Mr. ROBINSON of Arkansas. Very well. I am very happy to receive that assurance.

RELIEF FOR HOME OWNERS

Mr. TRAMMELL. Mr. President, in the noon edition of the Washington Times I notice, in an article commenting on the emergency legislation which is to be proposed before the conclusion of this session, that the home loan bank bill which passed the House and is pending before a committee of the Senate may be abandoned if the opposition proves stubborn. That is a bill which has inspired hope in the breasts of millions and millions of home owners throughout the United States—hope that they will be able to secure some relief in the nature of loans to them for the purpose of refinancing and saving their homes from foreclosure.

Mr. President, I have gone over that measure. I do not think it is as broad and as generous as it should be, and I have contemplated offering some amendment to it so that an owner may be able to obtain a loan. Most everyone has been taken care of in legislation, and will be, except the individual home owner who has a mortgage upon his property, or desires to obtain a loan upon his home. I just rose to state that I hope this article in the Times is a mistake, and that the measure referred to will not be abandoned, regardless of the stubbornness of the opposition. I myself do not know of any opposition, but the bill has been pending for some time; it was referred to the committee on May 1 but has not yet been reported back to the Senate.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Tennessee?

Mr. TRAMMELL. I yield.

Mr. McKELLAR. I wish to say that I join wholeheartedly in the sentiments expressed by the Senator from Florida. I have many letters every day, probably a score of them, from people in my State whose homes are about to be sold. They are intensely interested in this subject. I do not think that there is anybody in the country more interested in legislation than are the home owners. So I sincerely hope that this bill will not be abandoned, but that, on the contrary, it will be passed at the earliest practicable moment.

Mr. BARKLEY and others addressed the Chair.

The VICE PRESIDENT. Does the Senator from Florida yield; and if so, to whom?

Mr. TRAMMELL. I yield the floor.

Mr. BARKLEY. I want to say that I did not hear the reading of the newspaper article by the Senator from Florida, and I do not know what the article contains; but, as I am a member of the subcommittee of the Committee on Banking and Currency, considering the home loan bank bill, I can say that, so far as that subcommittee is concerned, and so far as the full committee is concerned, there has been no discussion of abandoning this proposed legislation; there has been no intimation that it is to be abandoned; but there has been some delay in the ability of the subcommittee to get the bill ready and to report it to the full committee, largely because the members of the subcommittee have been engaged in the preparation of other important legislation and have found difficulty in attending to their multifarious duties all at the same time. However, we expect and hope early next week to report the measure to the full committee and get it reported to the Senate and put upon the calendar.

Mr. TRAMMELL. Mr. President, I am very glad to hear the statement of the Senator from Kentucky, and from it I gather the impression that the writer of the article to which I have referred was mistaken when he stated that the bill would probably be abandoned if it was stubbornly opposed.

Mr. McADOO. Mr. President, I may say, supplementing what my colleague on the committee, the distinguished Senator from Kentucky [Mr. BARKLEY] has just said, that as a member of the subcommittee dealing with this subject I can inform the Senator from Florida that the subcommittee has almost perfected this bill. I think we succeeded in putting the final touches on it this morning. There has been great difficulty in dealing with this very complex subject, and no time has been lost in trying to work it out, but many members of the committee, as the Senator from Kentucky has stated, are engaged on other subcommittees, and it has not always been possible to have meetings as promptly as we desired. I think, however, that the report of the subcommittee will go to the full committee early next week, and we hope to have the bill reported to the Senate during the same week.

A NEW MEDIEVALISM—ARTICLE BY GUGLIELMO FERRERO

Mr. BONE. Mr. President, the unhappy and somber picture presented by the present world conditions has impelled the President recently to address a communication to all the leading countries of the world. A gentleman who, I think, is an outstanding historian, Professor Ferrero, has recently prepared a very brief, lucid, and penetrating article dealing with world conditions which I think is as fine a bit of writing dealing with that matter as I have seen in many months. I ask unanimous consent that it may be inserted in the RECORD. It is very brief.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Herald, May 17, 1933]

A NEW MEDIEVALISM

By Guglielmo Ferrero

GENEVA.—Happily there are still the Jews in the world! They, at least, scream and struggle when they are flayed alive.

For 15 years the world has been full of horrors. On all sides there is massacre, pillage, deportation; scaffolds are erected, prisons are filled, and entire peoples are reduced to a state of slavery. No one is moved; no one even knows about it.

Millions have been spent on laying cables across the earth, wireless telegraphy has been invented, we can telephone from one continent to another. Newspapers spend fabulous sums in order to have the latest news. And never as at the present time have the free peoples so completely ignored the violence to which the enslaved peoples are subjected. It is a silent strangling of all liberty.

In certain countries of old civilization the inquisition has been restored, the liberty to think, speak, or print suppressed; savants, professors, and journalists have been reduced to the rank of salaried agents of force. In what free country have the savants,

professors, and journalists been moved? How much have they exerted themselves, even to merely sign a protest? It seems that the liberty of others is a matter which concerns no one.

In certain countries it is religion, in others science, which is persecuted. Many thousands of young men languish in the prisons of Europe because they wished to pray to God or study and judge the world according to the free aspiration of their own souls. The world does not even know. The churches are as indifferent as the universities. The tribunals of the countries under dictatorship are highly perfected machines; they massacre in silence.

The world seems to have no more sensibility or conscience. The indifference to liberty of the free countries is one of the most alarming phenomena of our epoch. After allowing 10,000,000 men to be butchered for liberty in the Great War, France, England, and the United States look on unmoved while tyranny takes possession of nearly all countries. Sometimes they even encourage it with their imprudent sympathy.

Germany would also have been trampled on and stained with blood by despotism, without the world perceiving it, had not Hitler conceived the idea of attacking the Jews. In this case, happily, a dictatorship has for the first time come into collision with a race and a religion capable of resistance. May this reaction be welcomed by all free men as a sign of hope.

Once more the Jews will have suffered for themselves and for humanity. Their cries of rage and pain have partially awakened the West. And it begins to ask:

"But what are these dictatorships which render possible persecutions of which only the Middle Ages were capable?"

Let us hope that the West is not about to relapse into its cowardly somnolence. On the day when the West asks itself seriously where the world is going it will perceive that this persecution of the Jews is not the only medieval barbarity which is reviving in the war-devastated world. There are others not less grave. It is time to perceive them and be moved by them. For little by little we are unconsciously sinking into a Middle Age far worse than the first, for it will be a Middle Age with nitroglycerine.

EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate several messages from the President of the United States submitting nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

NOMINATION OF CHARLES E. JACKSON—NOTIFICATION TO THE PRESIDENT

Mr. SMITH. Mr. President, yesterday I overlooked asking that the President be notified of the confirmation of the nomination of Mr. Charles E. Jackson to be Deputy Commissioner in the Bureau of Fisheries.

The VICE PRESIDENT. Is there objection to notifying the President of the confirmation of the nomination? The Chair hears none, and it is so ordered.

THE CALENDAR

The VICE PRESIDENT. Reports of committees are in order. If there be none, the calendar is in order.

The legislative clerk announced Executive C (72d Cong., 2d sess.), a treaty between the United States and the Dominion of Canada for the completion of the Great Lakes-St. Lawrence deep waterway, signed on July 18, 1932, as first in order on the calendar.

Mr. ROBINSON of Arkansas. I ask that the treaty go over.

The VICE PRESIDENT. The treaty will be passed over.

THE ARMY—GEORGE SHERWIN SIMONDS

The legislative clerk read the nomination of George Sherwin Simonds to be major general in the Army.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

JAMES FULLER M'KINLEY

The legislative clerk read the nomination of James Fuller McKinley to be The Adjutant General.

Mr. TYDINGS. Mr. President, I do not want to take the time of the Senate today, but I do think that there is a state of facts which the Senate ought to have in connection with a motion to confirm the nomination of General McKinley. I have nothing personal against General McKinley, but I do not think there are enough Senators present this afternoon to consider the matter; and I will ask that it go over until Monday, when more Senators shall be here.

The VICE PRESIDENT. The nomination will be passed over.

FURTHER ARMY NOMINATIONS

The Chief Clerk read sundry nominations of appointments in the Regular Army, appointments by transfer in the Regular Army, and promotions in the Regular Army.

The VICE PRESIDENT. Without objection, the nominations are confirmed.

THE NAVY

The legislative clerk read sundry nominations of promotions of officers in the Navy.

The VICE PRESIDENT. Without objection, the nominations are confirmed. That completes the calendar.

RECESS

The Senate resumed legislative session.

Mr. ROBINSON of Arkansas. I move that the Senate take a recess until the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on Monday next.

The motion was agreed to; and (at 2 o'clock and 5 minutes p.m.) the Senate, as in legislative session, took a recess until the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on Monday, May 22, 1933, the hour of meeting of the Senate sitting as a Court of Impeachment being 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 20 (legislative day of May 15), 1933

SECRETARY IN THE DIPLOMATIC SERVICE

Hooker A. Doolittle, of New York, now a Foreign Service officer of class 5 and a consul, to be also a secretary in the Diplomatic Service of the United States of America.

FEDERAL TRADE COMMISSIONER

Ewin Lamar Davis, of Tennessee, to be a Federal Trade Commissioner for the term expiring September 25, 1939, vice Charles W. Hunt.

COMPTROLLER OF CUSTOMS

Arthur A. Quinn, of New Jersey, to be Comptroller of Customs in Customs Collection District No. 10, with headquarters at New York, N.Y., in place of Arthur F. Foran.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 20 (legislative day of May 15), 1933

FEDERAL EMERGENCY RELIEF ADMINISTRATOR

Harry L. Hopkins to be Federal Emergency Relief Administrator.

APPOINTMENTS IN THE REGULAR ARMY

George Sherwin Simonds to be major general.

Claude Ernest Brigham to be Chief of the Chemical Warfare Service.

Edward Croft to be Chief of Infantry.

Alfred Theodore Smith to be brigadier general.

Francis Lejau Parker to be brigadier general.

Pegram Whitworth to be brigadier general.

Sherwood Alfred Cheney to be brigadier general.

David Lamme Stone to be brigadier general.

Edgar Thomas Conley to be Assistant The Adjutant General, Adjutant General's Department.

Albert Ernest Truby to be Assistant to the Surgeon General, Medical Corps.

Creed Fulton Cox to be Chief of the Bureau of Insular Affairs.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

Capt. Paul Shober Jones to Judge Advocate General's Department.

Capt. Eugene Ferry Smith to Judge Advocate General's Department.

First Lt. George DeVere Barnes to Quartermaster Corps.

PROMOTIONS IN THE REGULAR ARMY

Michael Charles Grenata to be captain, Corps of Engineers.

Arthur Layton Cobb to be first lieutenant, Field Artillery.

Benjamin Beckham Warriner to be lieutenant colonel, Medical Corps.

William Dey Herbert to be lieutenant colonel, Medical Corps.

Eugene Milburn to be lieutenant colonel, Dental Corps.

Lowell B. Wright to be lieutenant colonel, Dental Corps.

Harry Morton Deiber to be lieutenant colonel, Dental Corps.

James G. Morningstar to be lieutenant colonel, Dental Corps.

George Jefferson McMurry to be chaplain with the rank of major.

APPOINTMENT IN THE OFFICERS' RESERVE CORPS

GENERAL OFFICER

Alvin Horace Hankins to be brigadier general.

PROMOTIONS IN THE NAVY

To be captain

Randall Jacobs.

To be lieutenant commanders

John W. Roper	Byron J. Connell
Franz O. Willenbucher	Arthur Gavin
William N. Updegraff	Andrew Crinkley
William E. Clayton	George L. Compo
John H. Cassady	William J. Graham
Thomas W. Mather	

To be lieutenants

Howell C. Fish	Wayne N. Gamet
Thomas H. Templeton	Theodore J. Shultz
Edwin R. Wilkinson	Edward W. Young

To be surgeons

Charles G. Terrell
Howell C. Johnston

To be paymasters

Francis L. Gaffney	John A. Fields
Russell D. Calkins	Dillon F. Zimmerman
Maurice M. Smith	

To be assistant naval constructors

Philip F. Wakeman	Oscar M. Browne, Jr.
Leslie E. Richardson	Robert E. Perkins
Howard R. Garner	Robert T. Sutherland, Jr.
Harold M. Heiser	Harry W. Englund
Stanley M. Alexander	Marvin H. Gluntz

To be chief carpenter

Harold S. Hamilton.

To be chief pay clerk

William F. Bogar.

HOUSE OF REPRESENTATIVES

SATURDAY, MAY 20, 1933

The House met at 11 o'clock a.m.

The Chaplain, Rev. James Shera Montgomery, D.D., offered the following prayer:

Amid this sweet stillness, while we bow, Lord of mercy, hear us and forgive. As we live in Thy presence, so we live in Thy strength. Let this benediction of love supply a fresh reason why we should delight in Thee and acknowledge our daily blessings as Thy bountiful gifts. Heavenly Father, come with us; give us Thy guidance, that we may not indulge in intemperate speech or in pride or in willfulness. O keep our whole lives with large thoughts, fine emotions, and in fellowship with the things above. These blessings, dear Lord, will be a precious discipline against the day of friction and in the hour of humiliation. Bless all of us with good health, with the joy and peace of a good life. Amen.

The Journal of the proceedings of yesterday was read and approved.

CONTROL OF OIL PRODUCTION

The SPEAKER laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, May 20, 1933.

MY DEAR MR. SPEAKER: As the Congress is doubtless aware, a serious situation confronts the oil-producing industry. Because oil taken from the ground is a natural resource which once used cannot be replaced, it is of interest to the Nation that its production should be under reasonable control for the best interests of the present and future generations.

My administration for many weeks has been in conference with the Governors of the oil-producing States and with component parts of the industry, but it seems difficult, if not impossible, to bring order out of chaos only by State action. In fact, this is recognized by most of the Governors concerned.

There is a wide-spread demand for Federal legislation. May I request that this subject be given immediate attention by the appropriate committee or committees? The Secretary of the Interior stands ready to present any information or data desired.

May I suggest further that in order to save the time of the special session it might be possible to incorporate action relating to the oil industry with whatever action the Congress decides to take in regard to other industries; in other words, that consideration could be given at the same time that action is taken on the bills already introduced and now pending in committee.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Hon. HENRY T. RAINEY,
Speaker of the House of Representatives,
Washington, D.C.

Mr. MARLAND. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes on the subject of oil.

The SPEAKER. Is there objection?

There was no objection.

Mr. BYRNS. Mr. Speaker, I have not objected to this request, but I shall be compelled to object to any other request for time to discuss matters foreign to the two matters we have up today. We want to get through with this general debate today on the banking bill.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. Yes.

Mr. SNELL. Does the gentleman expect to bring up the program he referred to yesterday?

Mr. BYRNS. Yes. The first matter under consideration will be the rule relating to the Agricultural Institute, and then it is expected that a rule relating to the banking bill will be taken up for consideration. We are very anxious to conclude the general debate on the last bill today, so that we can take it up under the 5-minute rule on Monday and complete it. I do not know that anybody is going to ask for time to speak, and I make this statement in advance. I shall be compelled to object to any further requests for time.

Mr. WOODRUM. Mr. Speaker, I call the gentleman's attention to the fact that yesterday it was tentatively agreed that my colleague should have permission to ask unanimous consent.

Mr. BYRNS. Oh, I have no objection to giving unanimous consent in the case referred to, which I recall; but I shall object to anyone who desires to make a speech.

Mr. MARLAND. Mr. Speaker, I am presenting today a bill which is the result of many weeks of effort by the Government and the oil industry to atone for the crime of the century, the despoliation of the oil fields of this country through the lack of technical knowledge of some and the greed of other producers, causing the waste of that great natural resource. Since the geology of petroleum has become better-known, the oil-producing States have recognized this waste and have passed conservation laws to protect their oil resources. The present Interstate Commerce Act interferes with the proper operation of the State conservation